

भारत का राजपत्र The Gazette of India

प्रसाधारण

EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं 72] नई दिल्ली, सोमवार, दिसम्बर 11, 1972/अग्राहायणा 20, 1894
No. 72] NEW DELHI, MONDAY, DECEMBER 11, 1972/AGRAHAYANA 20, 1894

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed
as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 11th December, 1972:—

BILL No. XLII of 1972

A Bill further to amend the Indian Penal Code.

Be it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 1972. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

15 of 1860. 2. For section 4 of the Indian Penal Code (hereinafter referred to as the Penal Code), the following section shall be substituted, namely:— Substitution of new section for section 4.

‘4. The provisions of this Code shall apply also—

(a) to any offence committed outside India by a citizen of India; Ex-territorial application of the Code.

(b) to any offence committed by an alien on any ship or aircraft registered in India, wherever it may be;

(c) to any offence committed outside India by an alien—

(i) in connection with the discharge of his official duty while in the service of the Government or of any Corporation owned or controlled by the Government,

(ii) when such offence is punishable under any law relating to currency, coinage, Government stamps or foreign exchange regulations or to forgery of passports, visas or other public documents,

(iii) against the sovereignty, security or territorial integrity of India or which constitutes piracy or hijacking:

Provided that no alien shall be prosecuted and punished for the same offence more than once.

Explanation.—For the purposes of this section, the word “offence” includes every act committed outside India which if committed in India would be punishable under this Code.’

Substitution of new section for section 5 Saving.

3. For section 5 of the Penal Code, the following section shall be substituted, namely:—

“5. Nothing in this Code shall affect the provisions of any special or local law.”.

Insertion of new section 5A.

4. In Chapter II of the Penal Code, under the heading “GENERAL EXPLANATIONS”, before section 6, the following section shall be inserted, namely:—

General Clauses Act to apply for interpretation.

“5A. The General Clauses Act, 1897, shall apply for the interpretation of this Code as it applies for the interpretation of an Act of Parliament.”.

10 of 1897.

Omission of sections 8, 9 and 11.

5. Sections 8, 9 and 11 of the Penal Code shall be omitted.

Insertion of new section 13.

6. After section 12 of the Penal Code, the following section shall be inserted, namely:—

Election.

“13. “Election” means an election by whatever means held under any law for the purpose of choosing members of any Legislature, local authority or other public authority.’.

Omission of section 14.

7. Section 14 of the Penal Code shall be omitted.

Amendment of section 17.

8. In section 17 of the Penal Code, after the words “Government of a State”, the words “in India” shall be inserted.

Substitution of new sections for sections 18, 19, 20 and 21.

9. For sections 18, 19, 20 and 21 of the Penal Code, the following sections shall be substituted, namely:—

India.

“18. “India” means the territories to which this Code extends.

19. "Judge" means any person who is empowered by law to give, Judge.
in any legal proceeding, civil or criminal, a definitive judgment, or
a judgment which, if not appealed against, would be definitive, or a
judgment which, if confirmed by some other authority, would be
definitive, or who is one of a body of persons which is empowered by
law to give such a judgment, and includes a magistrate.

20. "Court of Justice" means a Judge or body of Judges when Court of
acting judicially. Justice.

21. "Public servant" means,— Public
servant

(i) any person who is a member of Parliament or of the
Legislature of a State in India;

(ii) any person in the service or pay of the Government,
or remunerated by the Government by fees or commission for
the performance of any public duty;

(iii) any person who is a member, or is in the service or pay,
of a local authority;

(iv) any person in the service or pay of a Corporation owned
or controlled by the Government;

(v) any Judge, including any person empowered by law to
discharge, whether by himself or as a member of a body of per-
sons, any adjudicatory functions;

(vi) any person specially authorised by a court of justice to
perform any duty in connection with the administration of
justice, including a liquidator, receiver or commissioner appoint-
ed by such court;

(vii) any arbitrator or other person to whom any cause or
matter has been referred for decision or report by a court of
justice or by a competent public authority;

(viii) any person who holds an office by virtue of which he
is empowered to prepare, publish, maintain or revise an elec-
toral roll or to conduct an election or part of an election; or

(ix) any person who holds an office by virtue of which he
is authorised or required by law to perform any public duty.

Explanation 1.—Persons falling under any of the above clauses
are public servants whether appointed by the Government or not.

Explanation 2.—A person falling under any of the above clauses
by virtue of any office or situation he is actually holding is a public
servant, whatever legal defect there may be in his right to hold
that office or situation.

21A. "State" means a State in India and includes a Union terri- State.
tory.

10. Section 22 of the Penal Code shall be omitted.

Omission
of section
22.

Substitution of new section for section 25.

Fraudulently.

11. For section 25 of the Penal Code, the following section shall be substituted, namely:—

‘25. A person is said to do a thing “fraudulently” if he does that thing with intent to deceive another and, by such deceit, either to cause injury to any person or to induce any person to act to his disadvantage.’.

Amendment of section 29.

12. In section 29 of the Penal Code, for the words “expressed or described”, the words “expressed, described or recorded” shall be substituted.

Omission of sections 31, 32 and 33.

13. Sections 31, 32 and 33 of the Penal Code shall be omitted.

Amendment of sections 34 and 35.

14. In sections 34 and 35 of the Penal Code, for the words “several persons” wherever they occur, the words “two or more persons” shall be substituted.

Substitution of new section for section 40.

15. For section 40 of the Penal Code, the following section shall be substituted, namely:—

Capital offence.

‘40. “Capital offence” means an offence for which death is the only punishment, or one of the punishments, provided by law.’.

Substitution of new section for section 43.

16. For section 43 of the Penal Code, the following section shall be substituted, namely:—

Illegal and legally bound to do.

‘43. (1) A thing is “illegal” if it is an offence, or is prohibited by law, or furnishes ground for a civil action.

(2) A person is “legally bound to do” a thing when he is bound by law to do that thing, or when it is illegal in him to omit to do that thing.’.

Omission of sections 48, 49 and 50.

17. Sections 48, 49 and 50 of the Penal Code shall be omitted.

Substitution of new sections for sections 52 and 52A.

18. For sections 52 and 52A of the Penal Code, the following sections shall be substituted, namely:—

Good faith.

‘52. A thing is said to be done or believed in “good faith” when it is done or believed honestly and with due care and attention.

52A. "Harbouring" means giving shelter to a person, and includes supplying a person with food, drink, money, clothes, arms, ammunition or means of conveyance, or assisting a person in any manner to evade apprehension.'

Harbour-
ing.

19. For section 53 of the Penal Code, the following section shall be substituted, namely:—

Substitu-
tion of
new
section
for
section
53.

"53. The punishments to which offenders are liable under the provisions of this Code are—

Punish-
ments.

- (i) death;
- (ii) imprisonment for life which shall be rigorous, that is, with hard labour;
- (iii) imprisonment for a term which may be—
 - (a) rigorous, that is, with hard labour, or
 - (b) simple, that is, with light labour;
- (iv) externment;
- (v) order for payment of compensation to victims;
- (vi) forfeiture of property;
- (vii) fine;
- (viii) public censure."

20. After section 53A of the Penal Code, the following section shall be inserted, namely:—

Insertion
of new
section
53B.

"53B. The sentence of death shall not be passed on a person convicted of a capital offence if at the time of committing the offence he was under eighteen years of age and death is not the only punishment provided by law for the offence."

Minors
not to
be sen-
tenced to
death.

21. Sections 54, 55 and 55A of the Penal Code shall be omitted.

Omission
of
sections
54, 55
and 55A.

22. In section 57 of the Penal Code, for the words "imprisonment for twenty years", the words "rigorous imprisonment for twenty years" shall be substituted.

Amend-
ment of
section
57.

23. For sections 64 and 65 of the Penal Code, the following sections shall be substituted, namely:—

Substitu-
tion of
new
sections
for
sections
64 and
65.

"64. In every case in which an offender is sentenced to a fine, it shall be competent to the court to direct by the sentence that, in default of payment of the fine, the offender shall undergo imprisonment for a certain term.

Sentence
of im-
prison-
ment for
non-
payment
of fine.

Offences
punish-
able
with
fine
and
imprison-
ment.

65. In every case in which the offence is punishable with imprisonment or fine, or with imprisonment and fine—

(a) the imprisonment in default of payment of the fine may be of any description to which the offender might have been sentenced for the offence;

(b) the term of such imprisonment shall not exceed one-fourth of the maximum term of imprisonment provided for the offence;

(c) such imprisonment shall be in addition to the imprisonment, if any, to which he may have been sentenced for the offence, or to which he may be liable under a commutation of a sentence.”.

Omission
of
section
66.

24. Section 66 of the Penal Code shall be omitted.

Substitu-
tion of
new
sections
for
sections
67
and
68.

25. For sections 67 and 68 of the Penal Code, the following sections shall be substituted, namely:—

Offences
punish-
able
with
fine
only.

“67. In every case in which the offence is punishable with fine only, imprisonment in default of payment of fine shall be simple, and the term thereof shall not exceed—

(a) two months, when the fine does not exceed one hundred rupees;

(b) four months, when the fine does not exceed two hundred rupees;

(c) six months, in any other case.

Termina-
tion of
imprison-
ment on
payment
or realisa-
tion of
fine.

68. (1) Imprisonment imposed in default of payment of a fine shall terminate whenever that fine is either paid, or realised by process of law, in full.

(2) When a part of the fine is paid or is realised by process of law, the term of imprisonment fixed in default of payment shall be deemed to be reduced by such number of days as bears to the total number of days in that term the same proportion as the amount of fine paid or realised bears to the amount of fine imposed, and if, at that time, imprisonment in default of payment is being suffered, it shall terminate on the expiration of the reduced term or, if the reduced term has previously expired, it shall terminate forthwith.

(3) In calculating the reduction required under sub-section (2), any fraction of a day less than one-half shall be left out of account and any other fraction shall be counted as one day.”.

Omission
of sec-
tion 69.

26. Section 69 of the Penal Code shall be omitted.

7. For sections 70, 71 and 72 of the Penal Code, the following sections be substituted, namely:—

Substitution of new sections for sections 70, 71 and 72.

"70. (1) No proceedings for realisation of fine or of any part thereof which remains unpaid, shall be commenced—

Limitation for levy of fine.

(a) at any time after the expiry of six years from the passing of the sentence, or

(b) if, under the sentence, the offender is liable to imprisonment for a longer period than six years, at any time after the expiry of that period.

(2) The death of the offender does not discharge from the liability for recovery of fine any property which would after his death be legally liable for his debts.

71. (1) Where anything which is an offence is made up of parts, any of which parts is itself an offence of the same kind, the offender shall not, unless expressly so provided, be punished separately for such parts.

Punishment of offence made up of parts or of several offences.

Illustrations

(a) A beats Z twenty times with a stick. His offence of voluntarily causing hurt to Z is made up of the twenty strokes given, each of which is itself an offence of voluntarily causing hurt. A is liable only to one punishment for the whole beating.

(b) While A is beating Z, Y intervenes, and A intentionally strikes Y. As this is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z and to another for voluntarily causing hurt to Y.

(2) Where an act constitutes an offence under two or more enactments, but the offences are the same, the offender shall not be punished for more than one of such offences.

(3) Where an act constitutes an offence under two or more enactments and the offences are not the same, or

where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence,

the offender may be punished separately for each of such offences, but shall not be punished in the aggregate with a more severe punishment than could be awarded for any one of such offences.

72. In all cases in which judgment is given in the alternative and a person is guilty of one of several offences specified in the judgment and if the same punishment is not provided for all of them, the offender shall be punished for the offence for which the lowest punishment is provided."

Punishment where judgment in alternative.

Omission
of sections
73 and 74.

28. Sections 73 and 74 of the Penal Code shall be omitted.

Insertion of
new sections 74A,
74B and
74C.

Extern-
ment.

29. After section 74 of the Penal Code, the following sections shall be inserted, namely:—

“74A. (1) Whenever any person is convicted of an offence specified in sub-section (2), and the court has reasons to believe that such person is likely again to engage himself in the commission of an offence similar to that for which he was convicted, or is satisfied that it is necessary to do so for any other reason, it may, instead of imposing on him a sentence of imprisonment, by order direct him to remove himself outside the area within the local limits of its jurisdiction or such area or district or part thereof contiguous thereto, by such route and within such time as the court may specify and not to enter or return to the said area, for the period specified in sub-section (3).

(2) The offences to which sub-section (1) applies are any offences punishable under Chapter VIII of this Code, or any other offence which caused, or was intended or known to be likely to cause, a breach of the peace.

(3) The period for which the court may direct the removal of any person under sub-section (1) shall not exceed two years or the maximum period of imprisonment which the court is competent to impose for the offence, whichever is less.

(4) In passing any order under sub-section (1), the court shall have due regard to the age, character and antecedents of the offender, the circumstances in which the offence was committed and other relevant factors.

(5) The court which passes an order under sub-section (1) may, on its own motion or on the application of the aggrieved person rescind or alter such order or may permit the person in respect of whom such order has been made to enter or return to the area, from which he was directed to remove himself, for such temporary period as may be specified by the Court.

(6) An order under sub-section (1) or sub-section (5) may—

(i) contain such conditions as may be imposed by the court, including a condition that the person should report himself at specified intervals to a police station or other authority mentioned therein; and

(ii) require the person in respect of whom such order is made to enter into a bond, with or without sureties, for the due observance of the conditions, if any, imposed therein.

(7) If the person to whom a direction has been issued under sub-section (1) fails to remove himself as directed or having so removed himself, enters the area without the permission under sub-section (5), within the period specified in the order, the court may

cause him to be arrested and removed in police custody to such place outside the area as the Court may specify in each case or it may direct him to be detained in prison for such period, not exceeding the period of imprisonment which it is competent to impose for the offence less the period of externment actually suffered by him and thereupon the order shall have effect as if a sentence of imprisonment has been imposed for the said period in lieu of the order of externment.

(8) Any order passed under sub-section (7) shall be in addition to any other penalty or punishment to which the person renders himself liable for the breach of the order.

(9) An order under sub-section (1) may also be made by an appellate court or by a court exercising its powers of revision.

74B. (1) Whenever any court convicts a person for an offence punishable under Chapter XVI, Chapter XVII or Chapter XXI of this Code, it may, by its sentence direct that the offender shall make such compensation as may be specified therein to the person mentioned in sub-section (6) for any loss or damage arising from such offence.

Compensation to victims.

(2) Any compensation awarded under sub-section (1) shall ordinarily be for payment of a definite sum of money but where the court is of opinion that the payment of such money may not be sufficient recompense, it may be in any form which the court deems fit to specify.

(3) The amount or monetary value of any compensation directed to be made under sub-section (1) shall not exceed the amount of fine which the court is empowered to impose.

(4) An order under sub-section (1) may be made in addition to or in lieu of any other punishment to which the person convicted may have been sentenced.

(5) Before passing any order under sub-section (1) the court shall take into consideration the nature of the offence, the motive therefor, the economic and social status of the offender and of the person in whose favour such order is made, and all other relevant factors.

(6) The compensation under sub-section (1) may be directed to be paid—

(i) to any person who has incurred expenses in prosecution, for defraying expenses properly incurred;

(ii) to any person for any loss, damage or injury caused by the offence, when compensation therefor is, in the opinion of the court, recoverable by such person in a civil court;

(iii) in the case of a conviction for any offence for having caused the death of another person or of having abetted the commission of such an offence, to the persons who are, under the Fatal Accidents Act, 1855, entitled to recover damages from the person sentenced, for the loss resulting to them from such death;

(iv) in the case of a conviction for any offence which includes theft, criminal misappropriation, criminal breach of trust, or

cheating or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, to any *bona fide* purchaser of such property, for the loss of the same, if such property is restored to the possession of the person entitled thereto.

(7) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the court shall take into account any sum paid or recovered as compensation under this section.

(8) For the purposes of this Code and of the Code of Criminal Procedure, 1898, an award of compensation under sub-section (1) shall be deemed to be a sentence of fine for the amount or monetary value of such compensation. 5 of 1898

Public
censure
for
certain
offences
after
previous
convic-
tion.

74C. (1) Whenever any person, having been convicted by a court in India of an offence specified in sub-section (3), is convicted again of a like offence, the court may, at the time of passing sentence, impose, in addition, the punishment of public censure by causing the offender's name, place of residence, the offence and the punishment imposed to be published at the offender's expense in such newspapers or in such other manner as the court may direct.

(2) The expenses of such publication shall be recoverable from the offender in the same manner as a fine.

(3) The offences to which sub-section (1) applies are any offences punishable under Chapter XII, Chapter XIII, sections 272 to 276, sections 383 to 389, sections 403 to 409, sections 415 to 420 or Chapter XVIII of this Code."

Substi-
tution of
new
section
for
section
75.

30. For section 75 of the Penal Code, the following section shall be substituted, namely:—

Enhanced
punish-
ment for
certain
offences
after pre-
vious
convic-
tion.

"75. Whoever, having been convicted by a court in India of an offence punishable under this Code with imprisonment of either description for a term of two years or upwards, commits within five years from the date of his final release from prison after serving that sentence, any offence punishable under this Code with imprisonment for the like term, shall be subject for every such subsequent offence to imprisonment for life, or to imprisonment of either description for a term which may extend to ten years."

Substitu-
tion of
new sec-
tion for
section
76.

31. For section 76 of the Penal Code, the following section shall be substituted, namely:—

Act done
by a per-
son bound
or justi-
fied by
law or by

"76. (1) Nothing is an offence which is done by a person who is bound by law to do it or is justified by law in doing it.

(2) Nothing is an offence which is done by a person who by reason of a mistake of fact and not by reason of mistake of law, in

good faith, believes himself to be bound by law to do it or justified by law in doing it. mistake of fact believing himself bound or justified by law.

Illustrations

(a) A, an officer of a court of justice being ordered by that court to arrest Y, and, after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

(b) A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the fact, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence."

32. Section 79 of the Penal Code shall be omitted.

Omission of section 79.

33. For section 94 of the Penal Code, the following section shall be substituted, namely:—

Substitution of new section for section 94.

'94. Except murder and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats which, at the time of doing it, reasonably cause the apprehension that instant death or grievous bodily harm, either to that person or to any near relative of that person present when the threats are made, will otherwise be the consequence, provided the person doing the act did not, of his own accord or from a reasonable apprehension of harm to himself short of instant death or grievous bodily harm, place himself in the situation by which he became subject to such constraint.

Compulsion by threats.

Explanation.—In this section,—

(a) "near relative" means parent, spouse, son or daughter;

(b) "grievous bodily harm" means hurt of the description specified in the first two clauses of section 320;

(c) a person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

Illustration

A smith seized by a gang of dacoits and forced, by threat of instant death or grievous bodily harm, to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.'

34. For section 99 of the Penal Code, the following section shall be substituted, namely:—

Substitution of new section for section 99.

Restric-
tions on
the right
of private
defence.

“99. (1) here is no right of private defence against an act which does not reasonably cause an apprehension of death or of grievous hurt, if the act is done or attempted to be done—

(a) by a public servant acting in good faith in pursuance of the judgment or order of a court of justice, though the court may have had no jurisdiction to pass such judgment or order, provided the public servant believes in good faith that the court had such jurisdiction;

(b) by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law; or

(c) by the direction of a public servant acting in good faith under colour of his office, though that direction may not be strictly justifiable by law.

(2) A person is not deprived of the right of private defence by virtue of sub-section (1),—

(i) in a case falling under clause (a) thereof, unless he knows or has reason to believe that the person doing the act is a public servant and is acting in pursuance of the judgment or order of a court of justice or unless that person produces, if demanded, the authority in writing under which he is acting;

(ii) in a case falling under clause (b) thereof, unless he knows or has reason to believe that the person doing the act is a public servant; or

(iii) in a case falling under clause (c) thereof, unless he knows or has reason to believe that the person doing the act is acting by the direction of public servant, or unless such person states the authority under which he acts, or if he has authority in writing, unless he produces that authority, if demanded.

(3) The right of private defence in no case extends to the causing of more harm than it is necessary to cause for the purpose of defence.”.

Amend-
ment of
sec-
tion 100.

35. In section 100 of the Penal Code, for clauses *First to Sixthly*, the following clauses shall be substituted, namely:—

“(a) such an assault as may reasonably cause an apprehension that death or grievous hurt will otherwise be the consequence of the assault, or

(b) an assault with the intention of committing rape or having carnal intercourse against the order of nature, or

(c) an assault with the intention of kidnapping, or

(d) an assault with the intention of abducting where the abduction is an offence, or

(e) an assault with the intention of wrongfully confining a person in such circumstances as may reasonably cause him an apprehension that it will not be possible to have recourse to the public authorities for his release.”.

36. In section 101 of the Penal Code, for the words “voluntary causing to the assailant of any harm other than death”, the words “voluntary causing of any harm other than death or the involuntary causing of death to the assailant” shall be substituted. Amendment of section 101.

37. In section 103 of the Penal Code, for clauses *First to Fourthly*, the following clauses shall be substituted, namely:— Amendment of section 103.

“(a) robbery, or

(b) theft, mischief or criminal trespass in such circumstances as may reasonably cause an apprehension that death or grievous hurt will be the consequence if the right of private defence is not exercised, or

(c) mischief by fire or explosive substance committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling or as a place of worship or as a place for the custody of property, or on any vehicle, or

(d) mischief to property used or intended to be used for the purposes of the Government or a local authority or a corporation owned or controlled by the Government, where such mischief is committed by intentional destruction of, or damage to, the property and is likely to result in general danger, loss of human life or other grave consequences.”

38. In section 104 of the Penal Code, for the words “voluntary causing to the wrong-doer of any harm other than death”, the words “voluntary causing of any harm other than death or involuntary causing of death to the wrong-doer” shall be substituted. Amendment of section 104.

39. For section 105 of the Penal Code, the following section shall be substituted, namely:— Substitution of new section for section 105.

“105. The right of private defence of property commences when a reasonable apprehension of danger to the property commences; and it continues— Commencement and continuance of right of private defence of property.

(a) against robbery, as long as the offender causes or attempts to cause any person death or hurt or wrongful restraint or as long as the fear of instant death or of instant hurt or instant wrongful restraint continues;

(b) against theft, till the offender has effected his retreat with the property, or, if the property has been recovered earlier or the assistance of the public authorities has been obtained earlier, till such recovery of the property or the obtaining of such assistance;

(c) against mischief or criminal trespass, as long as the offender continues in the commission of mischief or criminal trespass.”.

Substitu-
tion of
new sec-
tion for
sections
108 and
108A.

40. For sections 108 and 108A of the Penal Code, the following section shall be substituted, namely:—

Abetting
an offence.

“108. (1) A person abets an offence, who abets the doing of a thing which is that offence or which would be an offence if done by a person capable by law of committing that offence with the same intention or knowledge as that of the abettor.

Explanation 1.—A person who abets the abetment of an offence abets that offence.

Illustrations

(a) A instigates B to instigate C to murder Z. B accordingly instigates C and C murders Z in consequence of B's instigation. B has committed the offence of abetting murder and is liable to be punished with the punishment provided for murder; and as A instigates B to commit the offence, A is also liable to the same punishment.

(b) If, in the foregoing *Illustration*, C refuses to murder Z, B has committed the offence of abetting murder, and is liable to be punished with imprisonment which may extend to seven years and with fine; and as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 2.—To constitute abetment of an offence, it is not necessary—

(a) that the act abetted should be committed; or

(b) that the effect requisite to constitute the offence should be caused; or

(c) that the person abetted should be capable by law of committing an offence, or should have any guilty intention or knowledge, or should commit offence.

Illustrations

(a) A instigates B to murder Z. B refuses to do so. A is guilty of abetting B to commit murder.

(b) A instigates B to murder Z. B in pursuance of the instigation stabs Z. Z recovers from the wound. A is guilty of abetting B to commit murder.

(c) A, intending to kill Z, instigates B, a child under ten years of age, to do an act which A knows will cause Z's death. B, in consequence of the instigation, does the act and thereby causes Z's death. Here B was not capable by law of committing an offence, but since his act would be murder if it had been committed by a person of full age with the same intention and knowledge as that of A, A is guilty of abetting murder.

(d) A, intending to take dishonestly an article belonging to Z out of his possession induces B to believe that the article belongs to A and instigates him to take it from Z's possession. B does so in good faith believing it to be A's property. Though B has no guilty intention or knowledge, A is guilty of abetting theft.

Explanation 3.—To constitute abetment of an offence that consists of an illegal omission of an act, it is not necessary that abettor himself should be bound to do that act.

Explanation 4.—It is not necessary to do an act of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engages in the conspiracy in pursuance of which the offence is committed.

Illustration

A concert with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here though A and C have not conspired together C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section and is liable to be punished for murder.

(2) A person abets an offence, who, in India, abets the doing of any act outside India, which, if done in India, would constitute that offence.

Illustration

A in India, instigates B, a foreigner in Nepal, to commit a murder in Nepal. A is guilty of abetting murder.”.

41. In section 109 of the Penal Code,—

(a) the words “by this Code” shall be omitted;

(b) *Illustrations (a), (b) and (c)* shall be omitted.

42. For sections 115 and 116 of the Penal Code, the following sections shall be substituted, namely:—

Amend-
ment of
section
109.

Substitu-
tion of
new sec-
tions for
sections
115 and
116.

“115. Whoever abets the commission of a capital offence shall, if that offence be not committed in consequence of the abetment, and no express provision is made for the punishment of such abetment, be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine;

Abetment
of capital
offence
if offence
not com-
mitted.

and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment for a term which may extend to fourteen years, and shall also be liable to fine.

Illustration

A instigates B to murder Z. The offence is not committed. If B had murdered Z, he would have been subjected to the punishment of death or imprisonment for life. Therefore, A is liable to imprisonment for a term which may extend to seven years and also to fine; and if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

Abetment of offence punishable with imprisonment if offence be not committed.

116. Whoever abets an offence, not being a capital offence, shall, if that offence be not committed in consequence of the abetment, and no express provision is made for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for that offence, or with both;

and if the abettor is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with the punishment provided for the offence.

Illustrations

(a) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this section, and is punishable accordingly.

(b) A, a police officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to the punishment provided for robbery.”.

Insertion of new section 117A.

43. After section 117 of the Penal Code, the following section shall be inserted, namely:—

Abetting commission of offence by a child.

“117A. Whoever abets the commission of an offence punishable with imprisonment by a child under fifteen years of age, whether or not the offence is committed in consequence of the abetment, shall be punished with imprisonment of any description for a term which may extend to twice the longest term of imprisonment provided for that offence, and shall also be liable to fine.”.

Amendment of section 118.

44. In section 118 of the Penal Code, for the words “an offence punishable with death or imprisonment for life”, the words “a capital offence” shall be substituted.

Amendment of section 119.

45. In section 119 of the Penal Code, for the third, fourth and fifth paragraphs, the following shall be substituted, namely:—

“(a) if the offence be committed, shall be punished—

(i) in the case of a capital offence, with imprisonment of either description for a term which may extend to ten years;

(ii) in any other case, with imprisonment of any description provided for the offence for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both;

(b) if the offence be not committed, shall be punished—

(i) in the case of a capital offence, with imprisonment of either description for a term which may extend to five years;

(ii) in any other case, with imprisonment of any description provided for the offence for a term which may extend to one-fourth of the longest term of such imprisonment or with such fine as is provided for the offence, or with both.”.

46. In section 120 of the Penal Code, after the words “offence punishable with imprisonment”, the words “not being a capital offence” shall be inserted.

Amendment of section 120.

47. After Chapter VA of the Penal Code, the following new Chapter shall be inserted, namely:—

Insertion of new Chapter VB.

“CHAPTER VB

ATTEMPTS

120C. A person attempts to commit an offence punishable by this Code, when—

Definition of attempt.

(a) he, with the intention or knowledge requisite for committing it, does any act towards its commission;

(b) the act so done is closely connected with, and proximate to, the commission of the offence;

(c) that act fails in its object because of facts not known to him or because of circumstances beyond his control.

Illustrations

(a) A, intending to murder Z, buys a gun and loads it. A is not yet guilty of an attempt to commit murder. A fires the gun at Z; he is guilty of an attempt to commit murder.

(b) A, intending to murder Z, by poison, purchases poison and mixes the same with food which remains in A’s keeping; A is not yet guilty of an attempt to commit murder. A places the food on Z’s table, or delivers it to Z’s servant to place it on Z’s table. A is guilty of an attempt to commit murder.

(c) A, with intent to steal another person’s box, while travelling in a train, takes a box and gets down. He finds the box to be his own. As he has not done any act towards the commission of the offence intended by him, he is not guilty of an attempt to commit theft.

(d) A, with intent to steal jewels, breaks open Z’s box, and finds that there is no jewel in it. As his act failed in its object because of facts not known to him, he is guilty of an attempt to commit theft.

120D. Whoever is guilty of an attempt to commit an offence punishable by this Code with imprisonment for life or with imprisonment for specified term, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with imprisonment of any description provided for the offence for a term

Punishment for attempt.

which may extend to one-half of the imprisonment for life, or, as the case may be, one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.”.

Amend-
ment of
sections
122 and
123.

48. In sections 122 and 123 of the Penal Code, for the words “imprisonment of either description”, the words “rigorous imprisonment” shall be substituted.

Insertion
of new
section
123A.

49. After section 123 of the Penal Code, the following section shall be inserted, namely:—

Assisting
India's
enemies.

“123A. Whoever assists in any manner an enemy at war with India, or the armed forces of any country against whom the armed forces of India are engaged in hostilities, whether or not a state of war exists between that country and India, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.”.

Substitu-
tion of
new sec-
tions for
section
124A.

50. For section 124A of the Penal Code, the following sections shall be substituted, namely:—

Sedition.

“124A. Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise,

excites, or attempts to excite, disaffection towards the Constitu-
tion, or the Government or Parliament of India, or the Government
or Legislature of any State, or the administration of justice, as by
law established,

intending or knowing it to be likely thereby to endanger the
integrity or security of India, or of any State, or to cause public
disorder,

shall be punished with imprisonment for life or with rigorous
imprisonment for a term which may extend to three years, and shall
also be liable to fine.

Explanation 1.—The expression “disaffection” includes feelings
of enmity, hatred or contempt.

Explanation 2.—Comments expressing disapprobation of the pro-
visions of the Constitution, or of the actions of the Government, or
of the measures of Parliament or a State Legislature, or of the pro-
visions for the administration of justice, with a view to obtain their
alteration by lawful means without exciting or attempting to excite
disaffection, do not constitute an offence under this section.

Insult to
the
Constitu-
tion,
national
flag,
national
emblem
or
national
anthem.

124B. Whoever deliberately insults the Constitution of India or
any part thereof, the national flag, the national emblem or the national
anthem, by burning desecration or otherwise, shall be punished with
imprisonment of either description for a term which may extend to
three years, or with fine, or with both.”.

51. In section 125 of the Penal Code, for the words "any Asiatic Power in alliance or at peace with the Government of India", the words "any foreign State at peace with India" shall be substituted. Amendment of section 125.
52. In section 126 of the Penal Code, for the words "any Power in alliance or at peace with the Government of India", the words "any foreign State at peace with India" shall be substituted. Amendment of section 126.
53. In sections 128, 129 and 130 of the Penal Code, the words "State prisoner or" wherever they occur, shall be omitted. Amendment of sections 128, 129 and 130.
54. For Chapter VII of the Penal Code, the following Chapter shall be substituted, namely:— Substitution of new Chapter for Chapter VII.

CHAPTER VII

OFFENCES RELATING TO THE ARMED FORCES

130A. In this Chapter,—

(a) "armed forces" means the military, naval and air forces, and includes any other armed forces of the Union;

(b) "officer", in relation to the armed forces, means a person commissioned, gazetted or in pay as an officer of the armed forces, and includes a junior commissioned officer, a warrant officer, a petty officer and a non-commissioned officer and a non-gazetted officer;

(c) "member" in relation to the armed forces, means a person in the armed forces other than an officer.

131. Whoever abets the committing of mutiny by an officer or member of any of the armed forces shall,— Definition of mutiny.

(a) if mutiny be committed in consequence of such abetment, be punished with death, or with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine;

(b) in any other case, be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

132. Whoever attempts to seduce any officer or member of any of the armed forces from his allegiance or his duty shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Attempt to seduce an officer or member of any of the armed forces from his duty.

133. Whoever abets an assault by an officer or member of any of the armed forces on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine. Abetment of assault on superior officer.

Abetment
of assault
on
superior
officer if
the
assault is
commit-
ted.

134. Whoever abets an assault by an officer or member of any of the armed forces on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Abetment
of deser-
tion from
armed
forces.

135. Whoever abets the desertion of any officer or member of any of the armed forces shall,—

(a) if the desertion be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both;

(b) in any other case, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbour-
ing
deserter.

136. Whoever, knowing or having reason to believe that an officer or member of any of the armed forces has deserted, harbours such officer or member, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Exception.—This provision does not extend to the case in which the harbour is given by a wife to her husband.

Deserter
concealed
on board
merchant
vessel
through
negli-
gence of
master.

137. The master or person in charge of a merchant vessel, on board of which any deserter from the armed forces is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding five hundred rupees, if he might have known of such concealment but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.

Abetment
of an act
of insub-
ordina-
tion.

138. Whoever abets what he knows to be an act of insubordination by an officer or member of any of the armed forces shall,—

(a) if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

(b) in any other case, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Inclte-
ment to
mutiny or
other act
of insub-
ordina-
tion.

138A. Whoever makes or publishes or circulates any statement, rumour or report, with intent to cause, or which is likely to cause, any officer or member of any of the armed forces to mutiny or otherwise disregard or fail in his duty as such officer or member, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Explanation.—A person making, publishing or circulating any such statement, rumour or report, who has reasonable grounds for

believing that such statement, rumour or report is true and makes, publishes or circulates it in good faith and without any such intent as aforesaid, does not commit an offence under this section.

138B. Whoever—

(a) with intent to affect adversely the recruitment of persons to serve in the armed forces dissuades or attempts to dissuade the public or any person from entering any such forces, or

(b) without dissuading or attempting to dissuade from entering such forces, instigates the public or any person to do, after entering any such force, anything which is punishable as mutiny or insubordination under the law relating to that armed force,

shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Explanation.—The provisions of clause (a) do not extend to comment on, or criticism of, the policy of the Government in connection with the armed forces, made in good faith without any intention of dissuading from enlistment, or to advice given in good faith for the benefit of the individual to whom it is given, or of any member of his family, or of any of his dependants.

Dissua-
sion from
enlisting
and insti-
gation to
mutiny or
insubordi-
nation
after en-
listment.

46 of 1950
62 of 1957
45 of 1950.

139. No person subject to the Army Act, 1950, the Navy Act, 1957, the Air Force Act, 1950, or any other law relating to the armed forces is subject to punishment under this Code for any of the offences defined in this Chapter.

Persons
subject to
certain
laws not
to be
punished
under the
Chapter.

140. Whoever, not being an officer or member of the armed forces, wears any garb or carries any token resembling any garb or token used by such an officer or member, with the intention that it may be believed that he is such an officer or member, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Wearing
garb or
carrying
token
used by
officer or
member
of the
armed
forces.

55. In section 141 of the Penal Code, for the third clause, the following clause shall be substituted, namely:—

“Third—To commit any offence.”

Amend-
ment of
section
141.

56. After section 147 of the Penal Code, the following section shall be inserted, namely:—

Inser-
tion of
new sec-
tion 147A.

“147A. Whoever makes any preparation for committing rioting shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.”

Making
prepara-
tion to
commit
rioting.

57. In section 153 of the Penal Code, the words “malignantly, or wantonly” shall be omitted.

Amend-
ment of
section
153.

Amend-
ment of
section
153A.

58. In section 153A of the Penal Code,—

(a) in sub-section (1),—

(i) after the words “punished with imprisonment”, the words “of either description” shall be inserted;

(ii) the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—For the purposes of this sub-section, intention on the part of the offender to promote or attempt to promote disharmony or feelings of enmity, hatred or ill-will is not a necessary ingredient of the offence.”;

(b) in sub-section (2), after the words “punished with imprisonment”, the words “of either description” shall be inserted.

Amend-
ment of
section
153B.

59. In section 153B of the Penal Code, after the words “punished with imprisonment”, where they occur at both the places, the words “of either description” shall be inserted.

Insert-
tion of
new sec-
tion 153C.

60. After section 153B of the Penal Code, the following section shall be inserted, namely:—

State-
ments
conduc-
ing to
offences
against
public
tranquil-
lity.

“153C. (1) Whoever makes, publishes or circulates any statement, rumour or report—

(a) with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities; or

(b) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community; or

(c) with intent to cause, or which is likely to cause, fear or alarm to the public or to any section of the public, whereby any person may be induced to commit an offence against the public tranquillity,

shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Exception.—A person making, publishing or circulating any such statement, rumour or report, who has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it in good faith and without any such intent as aforesaid, does not commit an offence under this section.

(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment for a term which may extend to five years, and shall also be liable to fine.”.

61. In section 154 of the Penal Code, for the words "with fine not exceeding one thousand rupees", the words "with imprisonment of either description for a term which may extend to six months, or with fine, or with both" shall be substituted.

Amendment of section 154.

62. In sections 155 and 156 of the Penal Code, for the words "with fine", the words "with imprisonment of either description for a term which may extend to six months, or with fine, or with both" shall be substituted.

Amendment of sections 155 and 156.

63. In section 157 of the Penal Code, for the words "harbours, receives or assembles", the words "assembles, receives or shelters" shall be substituted.

Amendment of section 157.

64. In section 160 of the Penal Code, for the words "one month, or with fine which may extend to one hundred rupees", the words "six months, or with fine" shall be substituted.

Amendment of section 160.

65. In section 161 of the Penal Code, in the *Explanation*, for the fourth paragraph, the following paragraph shall be substituted, namely:—

Amendment of section 161.

"A motive or reward for doing." A person who receives a gratification as a motive or reward for doing what he does not intend or is not in a position to do or has not done, comes within these words.'

66. In section 166 of the Penal Code, for the words "one year", the words "three years" shall be substituted.

Amendment of section 166.

67. In section 167 of the Penal Code,—

Amendment of section 167.

(a) for the words "or translation of any document, frames or translates", the words "of any document, prepares" shall be substituted;

(b) the following *Explanation* shall be added at the end, namely:—

'*Explanation*.—The expression "preparation of any document" includes preparation of a copy or translation of a document.'

68. In section 171 of the Penal Code, for the words "three months, or with fine which may extend to two hundred rupees", the words "six months, or with fine" shall be substituted.

Amendment of section 171.

69. In section 171A of the Penal Code, for clause (b), the following clause shall be substituted, namely:—

Amendment of section 171A.

'(b) "electoral right" means the right of a person at an election to stand or not to stand as a candidate, or to withdraw or not to withdraw his candidature, or to vote or to refrain from voting.'

70. In sections 171E and 171F of the Penal Code, for the words "one year", the words "two years" shall be substituted.

Amendment of sections 171E and 171F.

- Amendment of section 171G.
71. In section 171G of the Penal Code, for the words "shall be punished with fine", the words "or in relation to the candidature or withdrawal of candidature of any candidate, shall be punished with imprisonment of either description which may extend to two years, or with fine, or with both" shall be substituted.
- Amendment of sections 171H and 171I.
72. In sections 171H and 171I of the Penal Code, for the words "fine which may extend to five hundred rupees", the words "imprisonment of either description which may extend to two years, or with fine, or with both" shall be substituted.
- Amendment of sections 172 and 173.
73. In sections 172 and 173 of the Penal Code,—
- (a) for the words "one month, or with fine which may extend to five hundred rupees", the words "three months, or with fine" shall be substituted;
- (b) after the words "to produce a document", the words "or other thing" shall be inserted;
- (c) for the words "six months, or with fine which may extend to one thousand rupees", the words "one year, or with fine" shall be substituted.
- Amendment of section 174.
74. In section 174 of the Penal Code,—
- (a) for the words "one month, or with fine which may extend to five hundred rupees", the words "three months, or with fine" shall be substituted;
- (b) for the words "six months, or with fine which may extend to one thousand rupees", the words "one year, or with fine" shall be substituted;
- (c) the *Illustrations* shall be omitted.
- Amendment of section 175.
75. In section 175 of the Penal Code,—
- (a) after the word "document", where it occurs at both the places, the words "or other thing" shall be inserted;
- (b) for the words "one month, or with fine which may extend to five hundred rupees", the words "three months, or with fine" shall be substituted;
- (c) for the words "six months, or with fine which may extend to one thousand rupees", the words "one year, or with fine" shall be substituted;
- (d) the *Illustration* shall be omitted.
- Amendment of section 176.
76. In section 176 of the Penal Code,—
- (a) for the words "one month, or with fine which may extend to five hundred rupees", the words "three months, or with fine" shall be substituted;
- (b) for the words "six months, or with fine which may extend to one thousand rupees", where they occur at both the places, the words "one year, or with fine" shall be substituted;

77. In section 177 of the Penal Code,—

Amend-
ment of
section
177.

(a) the words “which may extend to one thousand rupees” shall be omitted;

(b) the *Illustrations* shall be omitted;

(c) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

‘Explanation.—In section 176 and in this section, the word “offence” includes any act committed at any place out of India, which, if committed in India, would be punishable under this Code; and the word “offender” includes any person who is alleged to have been guilty of any such act.’

78. In sections 178 and 179 of the Penal Code, the words “which may extend to one thousand rupees” shall be omitted.

Amend-
ment of
sections
178 and
179.

79. In section 180 of the Penal Code, for the words “three months, or with fine which may extend to five hundred rupees”, the words “six months, or with fine” shall be substituted.

Amend-
ment of
section
180.

80. In section 182 of the Penal Code, for the words “six months, or with fine which may extend to one thousand rupees”, the words “one year, or with fine” shall be substituted.

Amend-
ment of
section
182.

81. In section 183 of the Penal Code,—

Amend-
ment of
section
183.

(a) the words “which may extend to one thousand rupees” shall be omitted;

(b) the following *Explanation* shall be added at the end, namely:—

“Explanation.—For the purposes of this section, a public servant shall be deemed to be acting under lawful authority if he acts in good faith and under colour of his office, even if the action of the public servant is not strictly justified by law.”

82. In section 184 of the Penal Code, for the words “imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both”, the words “fine which may extend to one thousand rupees” shall be substituted.

Amend-
ment of
section
184.

83. In section 185 of the Penal Code, for the words “imprisonment of either description for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both”, the words “fine which may extend to one thousand rupees” shall be substituted.

Amend-
ment of
section
185.

84. In section 186 of the Penal Code,—

Amend-
ment of
section
186.

(a) for the words “three months, or with fine which may extend to five hundred rupees”, the words “six months, or with fine” shall be substituted;

(b) the following *Explanation* shall be added at the end, namely:—

“Explanation.—For the purposes of this section, a public servant shall be deemed to be acting in the discharge of his public functions if he acts in good faith and under colour of his office, even if his action is not strictly justified by law.”.

Amend-
ment of
section
187.

85. In section 187 of the Penal Code,—

(a) for the words “simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both”, the words “fine which may extend to one thousand rupees” shall be substituted;

(b) in the second paragraph, the words “which may extend to five hundred rupees” shall be omitted.

Amend-
ment of
section
188.

86. In section 188 of the Penal Code, for the words beginning with “disobeys such direction” and ending with “one thousand rupees, or with both”, the following shall be substituted, namely:—

“disobeys such direction, shall be punished—

(a) if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, with imprisonment of either description for a term which may extend to one year or with fine, or with both;

(b) if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury to any person lawfully employed, with simple imprisonment for a term which may extend to three months, or with fine, or with both;

(c) in any other case, with fine”.

Amend-
ment of
section
193.

87. In section 193 of the Penal Code,—

(a) in *Explanation 2*, the *Illustration* shall be omitted;

(b) after *Explanation 3*, the following *Explanation* shall be inserted, namely:—

“Explanation 4.—For the purposes of this section, it is immaterial whether the fabricated evidence is or is not legally admissible in the proceeding in which it is intended to be used.”.

Amend-
ment of
section
194.

88. In section 194 of the Penal Code, after the words “the person who gives”, the words “or fabricates” shall be inserted.

Insertion
of new
sections
198A and
198B.

89. After section 198 of the Penal Code, the following sections shall be inserted, namely:—

Issuing or
signing
false
medical
certifi-
cate,

“198A. Whoever, being a medical practitioner, issues or signs any medical certificate or certificate of fitness, knowing that such certificate is false in any material particular, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both;

and, if he knows that the certificate is intended to be used in any stage of judicial proceeding, he shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

198B. Whoever corruptly uses or attempts to use any medical certificate or certificate of fitness referred to in section 198A as a true certificate, knowing the same to be false in any material particular, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both;

Using as true a medical certificate known to be false.

and, if he so uses or attempts to use it in any stage of a judicial proceeding, he shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

90. In section 204 of the Penal Code, after the word "document", where it occurs at both the places, the words "or other thing" shall be inserted.

Amendment of section 204.

91. After section 207 of the Penal Code, the following section shall be inserted, namely:—

Insertion of new section 207A.

"207A. Whoever, knowing or having reason to believe that any movable property has been lawfully attached by the order of a Court of Justice, removes or interferes with such property otherwise than in accordance with law, shall, whether or not, he was a party to the proceedings in which the order was made, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

Removal of attached property.

92. For section 211 of the Penal Code, the following section shall be substituted, namely:—

Substitution of new section for section 211.

"211. Whoever, with intent to cause injury to any person,—

(a) institutes or causes to be instituted in a Court of Justice any criminal proceeding against that person, knowing that there is no just or lawful ground for such proceeding against that person; or

False charge of offence made with intent to injure.

(b) falsely charges that person in a Court of Justice with having committed an offence, knowing that there is no just or lawful ground for such charge against that person,

shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both;

and if such criminal proceeding be instituted on a false charge of an offence punishable with imprisonment for seven years or a more severe sentence, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

Amend-
ment of
section 213.

93. In section 213 of the Penal Code, the following *Explanation* and *Exception* shall be inserted at the end, namely:—

“Explanation.—It is not necessary to the commission of an offence under this section that the offender should have done, or desisted from doing, what he undertook to do or to desist from doing.

Exception.—The provisions of this section do not extend to any case in which the offence may lawfully be compounded.”.

Amend-
ment of
section 214.

94. In section 214 of the Penal Code, for the *Exception*, the following shall be substituted, namely:—

“Explanation.—It is not necessary to the commission of an offence under this section that the other person should have done, or desisted from doing, what he undertook to do, or to desist from doing.

Exception.—The provisions of this section do not extend to any case in which the offence may lawfully be compounded.”.

Amend-
ment of
section
216A.

95. In section 216A of the Penal Code,—

(a) for the words “or have recently committed robbery or dacoity” the words “the offence of kidnapping, abduction, robbery or dacoity” shall be substituted;

(b) for the words “such robbery or dacoity, or of screening them or any of them from punishment”, the words “such offence” shall be substituted;

(c) in the *Explanation*, for the words “robbery or dacoity”, the word “offence” shall be substituted.

Amend-
ment of
sections
217 and
218.

96. In sections 217 and 218 of the Penal Code, for the words “legal punishment”, the words “punishment for an offence” shall be substituted.

Amend-
ment of
section
228.

97. In section 228 of the Penal Code,—

(a) for the words “six months”, the words “two years” shall be substituted;

(b) the words “which may extend to one thousand rupees” shall be omitted.

Substitu-
tion of
new sec-
tions for
section
229.

98. For section 229 of the Penal Code, the following sections shall be substituted, namely:—

Inter-
ference
with wit-
nesses.

“229. Whoever, by threats, bribes or other corrupt means, dissuades or attempts to dissuade any person from giving evidence before a public servant legally competent to examine him as a witness, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both

229A. Whoever, having been charged with an offence and released on bail or on his own bond, fails, without sufficient cause (the burden of proving which shall lie upon him), to appear in court in accordance with the terms of the bond, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Failure by person released on bail or bond to appear in court.

Explanation.—The punishment in this section is—

(a) in addition to the punishment to which the offender would be liable on a conviction for the offence with which he is charged; and

(b) without prejudice to the power of the court to order forfeiture of the bond.”.

99. For section 230 of the Penal Code, the following section shall be substituted, namely:—

Substitution of new section for section 230.

“230. “Coin” is metal used for the time being as money, and stamped and issued by the authority of the Government of India, or of the Government of a country outside India in order to be so used.

“Coin” defined.

Explanation.—Metal which has been stamped and issued by the authority of the Government of India in order to be used as money shall continue to be coin for the purposes of this Chapter, notwithstanding that it may have ceased to be used as money.”.

100. Sections 231, 233, 236, 237, 239, 242, 246, 248, 250 and 252 of the Penal Code shall be omitted.

Omission of sections 231, 233, 236, 237, 239, 242, 246, 248, 250 and 252.

101. In section 232 of the Penal Code,—

(a) for the words “Indian coin”, the words “any coin” shall be substituted;

Amendment of section 232.

(b) the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—A person commits this offence who intending to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.”.

102. In sections 234, 238 and 243 of the Penal Code, for the words “Indian coin”, the words “any coin” shall be substituted.

Amendment of sections 234, 238 and 243.

103. In section 235 of the Penal Code,—

(a) for the words “three years”, the words “ten years” shall be substituted;

Amendment of section 235.

(b) the second paragraph shall be omitted.

Amend-
ment of
section
240.

104. In section 240 of the Penal Code, for the words "which is a counterfeit of Indian coin, and which, at the time when he became possessed of it, he knew to be a counterfeit of Indian coin", the words "which, at the time when he became possessed of it, he knew to be a counterfeit coin" shall be substituted.

Amend-
ment of
section
247.

105. In section 247 of the Penal Code,—

(a) for the words "any Indian coin", the words "any coin" shall be substituted;

(b) the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—A person who scoops out a part of the coin and puts anything else into the cavity alters the composition of that coin."

Amend-
ment of
section
249.

106. In section 249 of the Penal Code, for the words "any Indian coin", the words "any coin" shall be substituted.

Amend-
ment of
section
254.

107. In section 254 of the Penal Code, for the words and figures "sections 246, 247, 248 or 249", the words and figures "section 247 or section 249" shall be substituted.

Insertion of
new sec-
tion 254A.

108. After section 254 of the Penal Code, the following section shall be inserted, namely:—

Dishonest
use of
slugs in
vending
machines.

"254A. Whoever dishonestly inserts or uses in a machine which sells goods or services or collects fares or tolls, anything that is intended to pass for, but is not, the coin or the token of value that the machine is designed to receive in exchange for the goods, services, fare or toll, as the case may be, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

Substitu-
tion of
new sec-
tions for
section
263A.

109. For section 263A of the Penal Code, the following sections shall be substituted, namely:—

Applica-
tion of
preceding
sections
to foreign
postage
stamps.

263A. The provisions of sections 247, 249 and 251 shall apply in relation to postage stamps issued by the Government of a foreign country as they apply in relation to revenue stamps.

Prohibition
of fictitious
postage
stamps.

263B. (1) Whoever—

(a) makes, knowingly utters, deals in or sells any fictitious postage stamp, or knowingly uses for any postal purpose any such stamp, or

(b) has in his possession, without lawful excuse, any such stamp, or

(c) makes or, without lawful excuse, has in his possession, any die, plate, instrument or material for making any such stamp,

shall be punished with fine which may extend to two hundred rupees.

(2) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious postage stamp may be seized and, if seized, shall be forfeited.

(3) In this section, "fictitious postage stamp" means any stamp falsely purporting to be issued by the Government of India or of a foreign country for the purpose of denoting a rate of postage, or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by such Government for that purpose.

110. In sections 264, 265, 266 and 267 of the Penal Code, for the words "one year", the words "two years" shall be substituted. Amendment of sections 264 to 267.

111. In section 269 of the Penal Code, for the words "six months", the words "one year" shall be substituted. Amendment of section 269.

112. In section 270 of the Penal Code,— Amendment of section 270.

(a) for the words "malignantly", the word "wilfully" shall be substituted;

(b) for the words "two years", the words "three years" shall be substituted.

113. In sections 272, 273, 274, 275 and 276 of the Penal Code, for the words "six months, or with fine which may extend to one thousand rupees", the words "seven years or with fine" shall be substituted. Amendment of sections 272 to 276.

114. In section 277 of the Penal Code,— Amendment of section 277.

(a) after the words "public spring", the word "well" shall be inserted;

(b) for the words "three months," or with fine which may extend to five hundred rupees", the words "one year, or with fine" shall be substituted.

115. In section 278 of the Penal Code, for the words "fine which may extend to five hundred rupees", the words "imprisonment of either description for a term which may extend to six months or with fine, or with both" shall be substituted. Amendment of section 278.

116. In section 279 of the Penal Code, the words "which may extend to one thousand rupees" shall be omitted. Amendment of section 279.

117. After section 279 of the Penal Code, the following section shall be inserted, namely:— Insertion of new section 279A.

"279A. Whoever knowingly or negligently drives any vehicle on a public way when that vehicle is in such a state or so loaded as to endanger life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both."

Driving unsafe or overloaded vehicle on a public way.

Amend-
ment of
sections
280, 282
and 284
to 289.

118. In sections 280, 282, 284, 285, 286, 287, 288 and 289 of the Penal Code, the words "which may extend to one thousand rupees" shall be omitted.

Amend-
ment of
sections
283 and
290.

119. In sections 283 and 290 of the Penal Code, the words "which may extend to two hundred rupees" shall be omitted.

Amend-
ment of
section
292.

120. In section 292 of the Penal Code, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Where, in any prosecution under this section, the question is whether the publication of any book, pamphlet, paper, writing, drawing, painting, representation or figure is in the interest of science, literature, art or learning or other object of general concern, the opinion of experts as to its scientific, literary, artistic, academic or other merit may be admitted in evidence."

Substitu-
tion of
new
section
for sec-
tion
294A.

121. For section 294A of the Penal Code, the following section shall be substituted, namely:—

Offences
in con-
nection
with
lotteries.

"294A. (1) Whoever, in connection with any lottery promoted or proposed to be promoted, whether in India or elsewhere,—

(a) prints any tickets for use in the lottery; or

(b) sells or distributes, or offers or advertises for sale or distribution, or has in his possession for the purpose of sale or distribution, any tickets or chances in the lottery; or

(c) prints, publishes or distributes, or has in his possession for the purpose of publication or distribution,—

(i) any advertisement of the lottery; or

(ii) any list, whether complete or not, of prize winners or winning tickets in the lottery; or

(iii) any such matter descriptive of the drawing or intended drawing of the lottery, or otherwise relating to the lottery, as is calculated to act as an inducement to persons to participate in that lottery or in other lotteries; or

(d) brings, or invites any person to send, into India for the purpose of sale or distribution any ticket in, or advertisement of, the lottery; or

(e) sends or attempts to send out of India any money or valuable thing received in respect of the sale or distribution, or any document recording the sale or distribution or the identity of the holder, of any ticket or chance in the lottery; or

(f) uses any premises, or causes or knowingly permits any premises to be used, for purposes connected with the promotion or conduct of the lottery; or

(g) causes, procures or attempts to procure any person to do any of the above-mentioned acts,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

(2) Nothing in this section applies in relation to a lottery which is a State lottery or is authorised by the State Government.

(3) The State Government may authorise a lottery with reference to this section, where it is satisfied that—

(a) the profits of the lottery are to be appropriated towards any charitable purpose ; or

(b) participation in the lottery is confined to the members of a society or other group of persons, and is not open to the public; or

(c) the lottery is incidental to an entertainment; or

(d) it is otherwise in the public interest to authorise the lottery.”.

122. For section 302 of the Penal Code, the following section shall be substituted, namely:—

“302. (1) Except in the cases specified in sub-section (2), whoever commits murder shall be punished with imprisonment for life and shall also be liable to fine.

(2) Whoever commits murder shall,—

(a) if the murder has been committed after previous planning and involves extreme brutality; or

(b) if the murder involves exceptional depravity; or

(c) if the murder is of a member of any armed forces of the Union or of any police force or of any public servant whose duty it is to preserve peace and order in any area or place, while such member or public servant is on duty,

be punished with death, or imprisonment for life, and shall also be liable to fine.”.

123. In section 304A of the Penal Code, for the words “two years”, the words “five years” shall be substituted.

124. In section 305 of the Penal Code, after the words “imprisonment for life or”, the word “rigorous” shall be inserted.

125. For sections 307 and 308 of the Penal Code, the following sections shall be substituted, namely:—

“307. Whoever attempts to commit murder shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender may,—

(a) if under sentence of imprisonment for life, be punished with death; and

Substitution of new section for section 302.

Punishment for murder.

Amendment of section 304A.

Amendment of section 305.

Substitution of new sections for sections 307 and 308.

Attempt to murder.

(b) in any other case, be punished with imprisonment for life.

Attempt
to
commit
culpable
homi-
cide.

308. Whoever attempts to commit culpable homicide not amounting to murder shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both and if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Illustration

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he thereby caused death, he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this section."

Omission
of sec-
tion 309.

126. Section 309 of the Penal Code shall be omitted.

Amend-
ment of
section
312.

127. In section 312 of the Penal Code, after the words "causes a woman with child to miscarry", the words and figures "except in accordance with the provisions of the Medical Termination of Pregnancy Act, 1971," shall be inserted. 34 of 1971.

Amend-
ment of
section
313.

128. In section 313 of the Penal Code, for the words "imprisonment for life, or with imprisonment of either description for a term which may extend to ten years", the words "rigorous imprisonment for a term which may extend to ten years" shall be substituted.

Insertion
of new
section
318A.

129. After section 318 of the Penal Code, the following section shall be inserted, namely:—

Failure
to pro-
vide
neces-
saries of
life.

"318A. Whoever having sufficient means and being legally bound to provide the necessaries of life to any person, fails without lawful excuse to do so, knowing that such failure will endanger the life, or seriously impair the health, of that person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

Substitu-
tion of
new sec-
tion for
section
320.
Grievous
hurt.

130. For section 320 of the Penal Code, the following section shall be substituted, namely:—

"320. The following kinds of hurt only are designated as grievous:—

- (1) deprivation or impairment of the sight of either eye or the hearing of either ear;
- (2) deprivation or destruction of any organ, member or joint;
- (3) permanent impairment of the powers of any organ, member or joint;
- (4) permanent disfiguration of the head or face;
- (5) fracture or dislocation of a bone;

(6) any hurt which endangers life or which causes the sufferer to be in severe bodily pain for ten days.”.

131. In section 323 of the Penal Code, the words “which may extend to one thousand rupees” shall be omitted.

Amendment of section 323.

132. In section 327 of the Penal Code, for the words “ten years”, the words “seven years” shall be substituted.

Amendment of section 327.

133. For section 328 of the Penal Code, the following section shall be substituted, namely:—

Substitution of new section for section 328.

“328. Whoever administers to, or causes to be taken by, any person any poison or any stupefying, intoxicating or unwholesome substance with intent to commit, or to facilitate the commission of, an offence, shall be punished with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine.”.

Administering poison, etc., with intent to commit an offence.

134. In section 329 of the Penal Code, the words “imprisonment for life, or” shall be omitted.

Amendment of section 329.

135. In sections 332 and 333 of the Penal Code, the word “lawful” shall be omitted.

Amendment of sections 332 and 333.

136. In section 334 of the Penal Code, for the words “with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both”, the words “with fine which may extend to one thousand rupees” shall be substituted.

Amendment of section 334.

137. In section 335 of the Penal Code,—

Amendment of section 335.

(a) for the words “four years”, the words “three years” shall be substituted;

(b) the words “which may extend to two thousand rupees” shall be omitted.

138. In section 336 of the Penal Code,—

Amendment of section 336.

(a) for the words “three months”, the words “six months” shall be substituted;

(b) for the words “two hundred and fifty rupees”, the words “five hundred rupees” shall be substituted.

139. In section 337 of the Penal Code,—

Amendment of section 337.

(a) for the words “six months”, the words “one year” shall be substituted;

(b) the words “which may extend to five hundred rupees” shall be omitted.

Amend-
ment of
section
338.

140. In section 338 of the Penal Code,—

(a) for the words “two years”, the words “three years” shall be substituted;

(b) the words “which may extend to one thousand rupees” shall be omitted.

Substitu-
tion of
new
sections
for sec-
tions 341
to 344.

141. For sections 341 to 344 of the Penal Code, the following sections shall be substituted, namely:—

Punish-
ment for
wrongful
restraint.

“341. Whoever wrongfully restrains any person, shall be punished with fine which may extend to one thousand rupees; and, if the offence is jointly committed by ten or more persons, every one of them shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Punish-
ment for
wrongful
confine-
ment.

342. Whoever wrongfully confines any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and, if the offence is jointly committed by ten or more persons, every one of them shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful
confine-
ment for
live days
or more.

343. Whoever wrongfully confines any person for five days or more, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.”.

Amend-
ment of
section
352.

142. In section 352 of the Penal Code, for the words “three months, or with fine which may extend to five hundred rupees”, the words “six months, or with fine” shall be substituted.

Insertion
of new
section
354A.

143. After section 354 of the Penal Code, the following section shall be inserted, namely:—

Indecent
assault
on a
minor.

“354A. Whoever assaults any minor under sixteen years of age in an indecent, lascivious or obscene manner, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”.

Amend-
ment of
section
356.

144. In section 356 of the Penal Code, for the words “on any property”, the words “of any property” shall be substituted.

Amend-
ment of
section
361

145. In section 361 of the Penal Code,—

(a) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

‘*Explanation*.—In this section, the expression “lawful guardian” includes any person who has lawful custody of a minor or of a person of unsound mind.’;

(b) in the *Exception*, for the word “unlawful”, the word “illegal” shall be substituted.

146. For section 362 of the Penal Code, the following sections shall be substituted, namely:—

Substitution of new sections for section 362.

“362. Whoever—

Abduction.

(a) by force or show of force compels, or by any deceitful means induces, any person to go from any place, or to move to a place other than the place of destination of that person, or

(b) takes any person away from any place without the consent of that person or some person legally authorised to consent on behalf of that person,

is said to abduct that person.

362A. (1) Whoever on board an aircraft in flight, being an aircraft registered in India, unlawfully by force or show of force seizes such aircraft or exercises control of it for the purpose of landing at a place other than the place of its destination shall be punished with imprisonment for life.

Forcible seizure and control of aircraft and other vehicles.

(2) Whoever on board any vehicle, other than an aircraft, registered in India, unlawfully by force or show of force seizes such vehicle or exercises control of it for the purpose of taking it to a place other than the place of its destination shall be punished with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine.”

147. In section 363 of the Penal Code, after the words “shall also be liable to fine”, the words “and if the person who is kidnapped, is under fifteen years of age, the imprisonment with which the offender shall be punished shall not be less than three years” shall be inserted.

Amendment of section 363.

148. In section 363A of the Penal Code, in sub-section (1), after the words “ten years”, the words “but which shall not be less than five years” shall be inserted.

Amendment of section 363A.

149. After section 364 of the Penal Code, the following section shall be inserted, namely:—

Insertion of new section 364A.

“364A. Whoever kidnaps or abducts any person in order that such person may be held to ransom shall be punished with rigorous imprisonment for a term which may extend to fourteen years, and shall also be liable to fine.”

Kidnaping or abducting for ransom.

150. For sections 366 and 366A of the Penal Code, the following sections shall be substituted, namely:—

Substitution of new sections for sections 366 and 366A.

“366. Whoever kidnaps or abducts any woman—

Kidnaping or abducting woman to compel her marriage, etc.

(a) with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or

(b) with intent that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse.

shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Procura-
tion of
woman or
minor
girl.

366A. (1) Whoever, by means of criminal intimidation or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punished with rigorous imprisonment which may extend to ten years, and shall also be liable to fine.

(2) Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person shall be punished with rigorous imprisonment which may extend to ten years and shall also be liable to fine."

Amend-
ment of
section
366B.

151. In section 366B of the Penal Code, for the word "imprisonment", the words "rigorous imprisonment" shall be substituted.

Amend-
ment of
section
367.

152. In section 367 of the Penal Code, for the words "imprisonment of either description", the words "rigorous imprisonment" shall be substituted.

Substitu-
tion of
new sec-
tion for
section
368.

153. For section 368 of the Penal Code, the following section shall be substituted, namely:—

Wrong-
fully con-
cealing of
keeping in
confinement,
kid-
napped or
abducted
person.

"368. Whoever, knowing that any person has been kidnapped or abducted, wrongfully conceals or confines such person shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine."

Amend-
ment of
section
369.

154. In section 369 of the Penal Code, for the words "with imprisonment of either description for a term which may extend to seven years", the words "with rigorous imprisonment for a term which may extend to seven years, but which shall not be less than two years" shall be substituted.

Amend-
ment of
sections
370 to
372.

155. In sections 370, 371 and 372 of the Penal Code, for the words "imprisonment of either description", the words "rigorous imprisonment" shall be substituted.

Amend-
ment of
section
373.

156. In section 373 of the Penal Code, after *Explanation II*, the following *Explanation* shall be inserted, namely:—

"*Explanation III*.—For the purposes of this section, it is not necessary that the possession of the minor should have been obtained from a third person."

157. For the heading "Of Rape" and sections 375 and 376 of the Penal Code, the following heading and sections shall be substituted, namely:—

'Sexual Offences

Substitution of new sections for sections 375 and 376. Rape.

375. A man is said to commit rape who has sexual intercourse—

(i) with a woman, other than his wife,—

(a) against her will, or

(b) without her consent, or

(c) with her consent when it has been obtained by putting her in fear of death or of hurt, either to herself or to anyone else present at the place, or

(d) with her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married, or

(e) with or without her consent, when she is under sixteen years of age;

(ii) with his wife who is under fifteen years of age.

Explanation 1.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Explanation 2.—A woman living separately from her husband under a decree of judicial separation or by mutual agreement shall be deemed to be a woman other than his wife for the purpose of this section.

376. Whoever commits rape shall,—

Punishment for rape.

(i) if the woman raped is his own wife and is not under twelve years of age, be punished with imprisonment of either description for a term which may extend to two years;

(ii) if the woman raped is his own wife but living separately from him, under a decree for judicial separation or by mutual agreement, be punished with imprisonment of either description for a term which may extend to seven years;

(iii) in any other case, be punished with imprisonment for life,

and shall also be liable to fine.

376A. Whoever, being a public servant, compels or seduces to illicit sexual intercourse any woman who is in his custody as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illicit intercourse of public servant with woman in his custody.

Illicit intercourse of superintendent, etc., with inmate of women's or children's institution.

376B. Whoever, being the superintendent or manager of a women's or children's institution or holding any other office in such institution by virtue of which he can exercise any authority or control over its inmates, compels or seduces to illicit sexual intercourse any female inmate of the institution shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—In this section, "women's or children's institution" means an institution, whether called an orphanage, home for neglected women or children, widows' home or by any other name, which is established and maintained for the reception and care of women or children, but does not include—

(a) any hostel or boarding house attached to, or controlled or recognised by, an educational institution, or

(b) any reformatory, certified or other school, or any home or workhouse, governed by any enactment for the time being in force.

Illicit intercourse of manager, etc. of a hospital with mentally disordered patient.

376C. Whoever, being concerned with the management of a hospital or being on the staff of a hospital, has illicit sexual intercourse with a woman who is receiving treatment for a mental disorder in that hospital, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—It shall be a defence to a charge under this section for the accused to prove that he did not know, and had no reason to believe, that the woman was a mentally disordered patient.'

Substitution of new section for section 377.
Buggery.

158. For section 377 of the Penal Code, the following section shall be substituted, namely:—

"377. Whoever voluntarily has carnal intercourse against the order of nature with any man or woman shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; and where such offence is committed by a person over eighteen years of age with a person under that age, the imprisonment may extend to seven years.

Explanation.—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section."

Substitution of new sections for sections 380 and 381.

159. For sections 380 and 381 of the Penal Code, the following sections shall be substituted, namely:—

Theft in building, vehicle or temple, etc.

"380. Whoever commits theft,—

(a) in any building or tent used as a human dwelling or for the custody of property, or

(b) in, or in respect of, any vehicle, vessel or aircraft used for the transport of goods or passengers, or

(c) in a temple, mosque, church, gurdwara or other place of worship open to the public, in respect of any property which belongs to, or is part of, such place of worship, or which is intended for the purpose of worship, or

(d) in respect of any property of the Government or of a local authority or of a Corporation owned or controlled by the Government,

shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

380A. Whoever, taking advantage of the occurrence of an accident in a public place or of a fire, flood, riot, earthquake or similar calamity in any area commits theft in that place or area, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft of property affected by accident, fire, flood, etc.

381. Whoever, being employed in any capacity by another person, commits theft in respect of any property in the possession of that person, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

Theft by employee.

160. After section 385 of the Penal Code, the following section shall be inserted, namely:—

Insertion of new section 385A.

385A. Whoever dishonestly threatens any person with the making or publication of any imputation which is likely to harm his reputation or the reputation of any near relative of that person, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Black-mail.

Explanation 1.—In this section, "near relative" means parent, spouse, son or daughter.

Explanation 2.—Where the threat is of accusation of the commission of an offence, it is immaterial whether the accusation is true or false.'

161. In section 388 of the Penal Code, the words and figures "and, if the offence be one punishable under section 377 of this Code, may be punished with imprisonment for life" shall be omitted.

Amendment of section 388.

162. In section 389 of the Penal Code, the words and figures "and, if the offence be punishable under section 377 of this Code, may be punished with imprisonment for life" shall be omitted.

Amendment of section 389.

163. For section 396 of the Penal Code, the following section shall be substituted, namely:—

Substitution of new section for section 396.

"396. If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall,—

Dacoity with murder.

(a) where the murder is committed in the circumstances specified in clause (a), clause (b) or clause (c) of sub-section (2)

of section 302, be punished with death, or imprisonment for life, or rigorous imprisonment for a term which may extend to ten years,

(b) in any other case, be punished with imprisonment for life, or rigorous imprisonment for a term which may extend to ten years,

and shall also be liable to fine.”.

Amend-
ment of
section
397.

164. In section 397 of the Penal Code, the words “uses any deadly weapon, or” shall be omitted.

Amend-
ment of
section
398.

165. In section 398 of the Penal Code,—

(a) after the words “at the time of”, the words “committing or” shall be inserted,

(b) for the words “seven years”, the words “five years” shall be substituted.

Amend-
ment of
section
399.

166. In section 399 of the Penal Code,—

(a) after the words “for committing dacoity”, the words, “or robbery” shall be inserted;

(b) for the words “ten years”, the words “seven years” shall be substituted.

Amend-
ment of
sections
400 and
401.

167. In sections 400 and 401 of the Penal Code, for the words “Whoever, at any time after the passing of this Act, shall belong”, the words “Whoever belongs” shall be substituted.

Amend-
ment of
section
402.

168. In section 402 of the Penal Code, for the words “, at any time after the passing of this Act shall be one of five,”, the words “is one of five” shall be substituted.

Amend-
ment of
section
403.

169. In section 403 of the Penal Code, *Explanation 1* and *Explanation 2* shall be re-numbered as *Explanation 2* and *Explanation 3* respectively and before *Explanation 2* as so re-numbered, the following *Explanation* shall be inserted, namely:—

“*Explanation 1*.—A partner in a partnership appropriating for his own use any property of the partnership without authority to do so under the partnership agreement or without the consent of the other partner, is guilty of an offence under this section.”.

Amend-
ment of
section
404.

170. In section 404 of the Penal Code, after the words “converts to his own use”, the word “any” shall be inserted.

Amend-
ment of
section
408.

171. In section 408 of the Penal Code, for the words “being a clerk or servant or employed as a clerk or servant”, the words “being employed in any capacity” shall be substituted.

172. In section 409 of the Penal Code, the word "factor," shall be omitted. Amendment of section 409.

173. For section 410 of the Penal Code, the following section shall be substituted, namely:— Substitution of new section for section 410.

'410. Property, the possession whereof has been transferred by theft, extortion, robbery or cheating, and property which has been criminally misappropriated or in respect of which criminal breach of trust has been committed, is designated as "stolen property" whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without India. But, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property. Stolen property.

Explanation.—Property, the possession whereof has been transferred by an act which would otherwise be an offence specified in this section but is not that offence by virtue of section 82 for section 84 shall be deemed to be stolen property.

Illustration

A, a child, six years of age, snatches away a necklace from another child, voluntarily causing hurt to that child. Z, knowing this fact, dishonestly receives the necklace from A. Though A's act is not robbery by virtue of section 82, the necklace is stolen property, and Z has committed the offence defined in section 411.'

174. In sections 411 and 414 of the Penal Code, after the words "with both", the following shall be inserted, namely:— Amendment of sections 411 and 414.

"and if the stolen property is the property of the Government or of a local authority or of a corporation owned or controlled by the Government and the offender knows or has reason to believe it to be so, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine."

175. For section 415 of the Penal Code, the following section shall be substituted, namely:— Substitution of new section for section 415.

'415. Whoever, by deceiving any person,—

(a) fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or Cheating.

(b) intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to any person in body, mind, reputation or property, is said to "cheat".

Explanation.—A dishonest concealment of facts, or, where there is a legal duty to disclose particular facts, a dishonest omission to disclose those facts, is a deception within the meaning of this section.

Substitu-
tion of
new sec-
tions for
section
420.

Cheat-
ing and
dis-
honestly
inducing
delivery
of pro-
perty.

176. For section 420 of the Penal Code, the following sections shall be substituted, namely:—

‘420. (1) Whoever cheats and thereby dishonestly induces the person deceived—

(a) to deliver any property to any person, or

(b) to consent that any person shall retain any property, or

(c) to make, alter or destroy the whole or any part of a valuable security, or

(d) to make, alter or destroy anything which is signed or sealed and which is capable of being converted into a valuable security,

shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Cheating
public
authori-
ties in
perform-
ance of
certain
contracts.

420A. Whoever, in performance of any contract with the Government or a local authority or a corporation owned or controlled by the Government, for the supply of any goods, the construction of any building or execution of other work—

(a) in the case of a contract for the supply of goods, dishonestly supplies goods which are less in quantity than, or inferior in quality to, those he contracted to supply, or which are, in any manner whatever, not in accordance with the contract, or

(b) in the case of a contract for the construction of a building or execution of other work, dishonestly uses materials which are less in quantity than, or inferior in quality to, those he contracted to use, or which are, in any manner whatever, not in accordance with the contract,

shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Employee
taking
bribe in
respect of
emplo-
yer's
affairs or
business.

420B. Whoever, being employed by another, accepts or obtains or agrees to accept or attempts to obtain, from any person for himself or for any other person, any gratification, other than legal remuneration, as a motive or reward—

(a) for doing or forbearing to do any act in relation to his employer's affairs or business; or

(b) for showing or forbearing to show, in the exercise of his functions, favour or disfavour to any person in relation to his employer's affairs or business,

shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Explanations.—(1) An advocate who receives a fee for arguing a case before a judge, a solicitor, a chartered accountant, a cost accountant or an architect who receives a fee or commission or other remuneration for rendering professional service shall be deemed to be employed by another for the purpose of this section.

(2) The word “gratification” is not restricted to pecuniary gratification, or to gratifications estimable in money.

(3) The words “legal remuneration” are not restricted to remuneration which any employee can lawfully demand, but include all remuneration which he is permitted by his employer to accept.

(4) “A motive or reward for doing.” A person who receives a gratification as a motive or reward for doing what he does not intend or is not in a position to do or has not done, comes within these words.

Exception.—This section does not extend to a case in which the employee is a public servant acting as such.’

177. For sections 426 to 432 of the Penal Code, the following sections shall be substituted, namely:—

Substitution of new sections for sections 426 to 432.

“426. Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Punishment for mischief.

427. Whoever commits mischief in respect of any property of the Government or of a local authority or a corporation owned or controlled by the Government or in respect of any machinery, and thereby causes loss or damage to the amount of one hundred rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Mischief causing damage to public property or machinery to the amount of one hundred rupees. or upwards.

428. Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow, or ox, whatever may be the value thereof, or any other animal of the value of two hundred rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Mischief by killing or maiming animal.

429. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause,—

Mischief by causing

(a) a diminution of the supply of water to the public or to any person for any purpose; or

diminution of supply of

(b) an inundation of, or obstruction to, any public drainage, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

water or inundation or obstruction in drainage.

Mischief
by injury
to public
road,
bridge,
river or
channel.

430. Whoever commits mischief by doing any act which renders any public road, bridge, navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Mischief
committed
after pre-
paration
made for
causing
death or
hurt or
wrongful
restraint.

431. Whoever commits mischief, having made preparation for causing to any person death, or hurt, or wrongful restraint, or fear of death, or of hurt, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Mischief
by
destroy-
ing, mov-
ing or
rendering
less useful
air-route,
beacon,
etc.

432. Whoever commits mischief by destroying or moving or rendering less useful any air-route, beacon or aerodrome light, or any light at or in the neighbourhood of an air-route or aerodrome provided in compliance with law, or any other thing exhibited or used for the guidance of aircraft, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both."

Substitu-
tion of
new sec-
tions for
sections
434 to 440.

178. For sections 434 to 440 of the Penal Code, the following sections shall be substituted, namely:—

Mischief
with
intent to
destroy
or make
unsafe
aircraft
or vessel.

"434. Whoever commits mischief to any aircraft or to any decked vessel or to any vessel of a burden of twenty tonnes or upwards, intending to destroy or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe, that aircraft or vessel, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and if such mischief is committed or attempted by fire or any explosive substance, shall be punished with imprisonment for life, or with the punishment aforesaid.

Mischief
by fire or
explosive
substance
with
intent to
cause
damage
to
amount
of one
hundred
rupees.

435. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause damage to any property to the amount of one hundred rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Mischief
by fire or
explosive
substance
with
intent
to destroy

436. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of, —

(a) any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property; or

(b) any object therein which is held sacred by any class of persons, place of worship, house, etc.

shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

179. For section 441 of the Penal Code, the following section shall be substituted, namely:—

Substitution of new section for section 441.

"441. Whoever—

Criminal trespass.

(a) enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or

(b) having entered into or upon such property without such intent, unlawfully remains there with such intent,

is said to commit criminal trespass."

180. For sections 443 to 460 of the Penal Code, the following sections shall be substituted, namely:—

Substitution of new sections for sections 443 to 460.

"443. A person commits burglary, if—

Burglary.

(a) he commits house-trespass in order to commit theft or any offence punishable with imprisonment for seven years or upwards; or

(b) having committed house-trespass, he commits theft or any such offence as aforesaid.

444. Whoever commits criminal trespass, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Punishment for criminal trespass.

445. Whoever commits house-trespass, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for house-trespass.

446. Whoever commits house-trespass, having made preparation—

(a) for causing hurt to, assaulting, or wrongfully restraining, any person, or

(b) for putting any person in fear of hurt, assault or wrongful restraint,

House-trespass after preparation for hurt, assault or wrongful restraint.

shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

447. Whoever commits burglary, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for burglary.

Grievous
hurt
caused
whilst
commit-
ting
burglary.

448. Whoever, whilst committing burglary,—

(a) causes grievous hurt to any person, or

(b) attempts to cause death or grievous hurt to any person,

shall be punished with rigorous imprisonment for a term which may extend to fourteen years, and shall also be liable to fine.

All
persons
jointly
concerned
in bur-
glary
punish-
able
where
death or
grievous
hurt
caused by
one of
them.

449. If, at the time of committing burglary, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such burglary shall be punished with imprisonment for life or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.”

Insertion
of new
section
460A.

181. After section 460 of the Penal Code, the following section shall be inserted, namely:—

Criminal
neglig-
ence by
profes-
sionals.

“460A. Whoever being engaged by another for rendering professional service shows wanton or reckless disregard in doing or omitting to do any act, for the interests of any person which he is bound to protect either under law or under a contract, express or implied, and thereby causes substantial loss or damage to the property or reputation of such person shall, without prejudice to any penalty to which he may be liable under any law regulating that profession, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Explanation.—An advocate who receives a fee for arguing a case before a judge, a solicitor, a chartered accountant, a cost accountant or an architect who receives a fee or commission or other remuneration for rendering professional service shall be deemed to be engaged by another for the purpose of this section.”

Amend-
ment of
section
464.

182. In section 464 of the Penal Code,—

(a) in paragraph *First*, after the words “at a time”, the words “or place, when the time or place is material” shall be inserted;

(b) in paragraph *Secondly*, after the words “by cancellation”, the words “addition, obliteration” shall be inserted.

Amend-
ment of
section
465.

183. In section 465 of the Penal Code, for the words “two years”, the words “three years” shall be substituted.

Amend-
ment of
sections
466.

184. In section 466 of the Penal Code,—

(a) for the words “Whoever forges a document, purporting to be”, the words “Whoever commits forgery in respect of a document which is, or purports to be,” shall be substituted;

(b) for the words "or document purporting to be made", the words "or document made" shall be substituted;

(c) for the words "seven years", the words "ten years" shall be substituted.

185. In section 467 of the Penal Code,—

(a) for the words "Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person", the words "Whoever commits forgery in respect of a document which is, or purports to be, a valuable security or a will, or an authority" shall be substituted;

(b) for the words "or any document purporting to be an acquittance", the words "or an acquittance" shall be substituted;

(c) the words "with imprisonment for life, or" shall be omitted.

186. For sections 470 and 471 of the Penal Code, the following sections shall be substituted, namely:—

"470. A document in respect of which, or any part of which, forgery has been committed is a forged document.

471. Whoever fraudulently or dishonestly uses as genuine any document which he knows, or has reason to believe, to be a forged document—

(a) shall, if the document is one of the description mentioned in section 466 or section 467, be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and

(b) shall, in any other case, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

187. In section 472 of the Penal Code,—

(a) the words "with imprisonment for life, or" shall be omitted;

(b) for the words "seven years", the words "ten years" shall be substituted.

188. In section 473 of the Penal Code, for the words "seven years", the words "ten years" shall be substituted.

189. For section 474 of the Penal Code, the following section shall be substituted, namely:—

"474. Whoever has in his possession any document of the description mentioned in section 466 or section 467, knowing the same to be forged and intending that the same shall fraudulently or dishonestly be used as genuine, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine."

Amendment of section 467.

Substitution of new sections for sections 470 and 471.

Forged document.

Using as genuine a forged document.

Amendment of section 472.

Amendment of section 473.

Substitution of new section for section 474.

Possessing forged document described in section 466 or 467.

Amend-
ment of
section
475.

190. In section 475 of the Penal Code,—

- (a) the words “with imprisonment for life, or” shall be omitted;
- (b) for the words “seven years”, the words “ten years” shall be substituted.

Amend-
ment of
section
476.

191. In section 476 of the Penal Code, for the words “seven years”, the words “ten years” shall be substituted.

Amend-
ment of
section
477.

192. In section 477 of the Penal Code,—

- (a) the words “or any authority to adopt a son,” shall be omitted;
- (b) the words “with imprisonment for life, or” shall be omitted;
- (c) for the words “seven years”, the words “ten years” shall be substituted.

Amend-
ment of
section
489E.

193. In section 489E of the Penal Code,—

- (a) in sub-section (1), the words “which may extend to one hundred rupees” shall be omitted;
- (b) in sub-section (2), the words “which may extend to two hundred rupees” shall be omitted.

Substitu-
tion
of new
Chapter
for
Chapter
XIX.

194. For Chapter XIX of the Penal Code, the following Chapter shall be substituted, namely:—

“CHAPTER XIX OFFENCES AGAINST PRIVACY

Use of
artificial
listening
or record-
ing appa-
ratus.

490. (1) Whoever, knowing that any artificial listening or recording apparatus has been introduced into any premises without the knowledge or consent of the person in possession of the premises, listens to any conversation with the aid of such apparatus or uses such apparatus for the purposes of recording any conversation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

(2) Whoever publishes any conversation or a record thereof, knowing that it was listened to or recorded with the aid of any artificial listening or recording apparatus introduced into any premises without the knowledge or consent of the person in possession of the premises, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Unautho-
rised
photo-
graphy.

491. (1) Whoever, intending to cause, or knowing it to be likely that he will cause, annoyance to any person, takes a photograph of that person without his consent elsewhere than in a public place, or takes his photograph in a public place when that person has prohibited such taking, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

(2) Whoever, intending to cause, or knowing it to be likely that he will cause, annoyance to any person, publishes any photograph of that person taken in contravention of sub-section (1) shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

492. Nothing in section 490 or section 491 applies—

(a) to a public servant acting in good faith in the course of his duties connected with the security of State, the prevention, detection or investigation of offences, the administration of justice, or the maintenance of public order, or

(b) to persons acting under the directions of such public servant.”.

Exception regarding certain acts of public servants and persons acting under their directions.

195. For section 494 of the Penal Code, the following section shall be substituted, namely:—

Substitution of new section for section 494.

“494. Whoever, being married, contracts another marriage in any case in which such marriage is void by reason of its taking place during the subsistence of the earlier marriage, commits bigamy and shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Bigamy.

Explanation.—Where a marriage has been dissolved by the decree of a competent court under an enactment but the parties are, by virtue of a provision of the enactment under which their marriage is dissolved, prohibited from a re-marrying within a specified period, then, for the purposes of this section, the marriage shall, notwithstanding its dissolution, be deemed to subsist during that period.

Exception.—The offence is not committed by any person who contracts the later marriage during the life of the spouse by earlier marriage, if, at the time of the later marriage such spouse shall have been continually absent from such person for seven years and shall not, within that period, have been heard of by such person as being alive, provided the person contracting the later marriage informs the person with whom it is contracted of the real state of facts so far as the same are within his or her knowledge.”.

196. For section 497 of the Penal Code, the following section shall be substituted, namely:—

Substitution or new section for section 497.

“497. Whoever has sexual intercourse with a person who is, and whom he or she knows, or has reason to believe, to be the wife or husband, as the case may be, of another person, without the consent or connivance of that other person, such sexual intercourse by the

Adultery

man not amounting to the offence of rape, commits adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.”.

Amend-
ment of
section
499.

197. In section 499 of the Penal Code, in the *Fourth Exception*,—

(a) after the words “report of the proceedings”, the words “in open court” shall be inserted;

(b) the *Explanation* shall be omitted.

Substitu-
tion of
new sec-
tion for
section
500.

198. For section 500 of the Penal Code, the following section shall be substituted, namely:—

Punish-
ment for
defama-
tion.

“500. (1) Whoever defames another shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

(2) Where the offence has been committed by publishing an imputation in a newspaper, the court convicting the offender may further order that its judgment shall be published, in whole or in part, in such newspaper as it may specify.

(3) The costs of such publication shall be recoverable from the convicted person as a fine.

Explanation.—The court may while passing a sentence under this section take into consideration the fact whether the guilt of the accused is aggravated by the plea and the nature of the evidence adduced to prove or disprove it.”.

Amend-
ment of
sections
501 and
502.

199. In sections 501 and 502 of the Penal Code, for the words “simple imprisonment”, the words “imprisonment of either description” shall be substituted.

Omission
of section
505.

200. Section 505 of the Penal Code shall be omitted.

Insertion
of new
sections
507A,
507B
and
507C.

201. After section 507 of the Penal Code, the following sections shall be inserted, namely:—

Threat of
suicide
with
intent to
concern a
public
authority.

“507A. Whoever holds out a threat of suicide to a public authority, with intent to cause that authority to do any act which it is not legally bound to do, or to omit to do any act which it is legally entitled to do, as the means of avoiding the execution of such threat, and does any act towards the execution of such threat, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Perform-
ing mock
funeral
of a
living
person.

507B. Whoever knowingly performs, or takes part in the performance of, any mock funeral associated with, or referable to, a living person which causes or is likely to cause a disturbance of the public peace, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

507C. (1) Whoever affixes to, or inscribes or exhibits on, any place open to public view any objectionable matter shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both and where such place is a public building, he shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Disfigurement of places open to public view.

(2) In this section,—

(a) “place open to public view” includes any private place or building, monument, statue, post, wall, fence, tree or other thing or contrivance visible to a person being in, or passing along, any public place;

(b) “objectionable matter” means any effigy or any bill, notice, document, paper or other thing containing any words, signs or visible representations which is—

(i) likely to incite any person to commit murder, sabotage or any offence involving violence; or

(ii) likely to seduce any member of any of the armed forces of the Union or of the police forces from his allegiance or his duty, or prejudice the recruiting of persons to serve in any such force or prejudice the discipline of any such force; or

(iii) likely to incite any section of the citizens of India to acts of violence against any other section of the citizens of India; or

(iv) deliberately intended to outrage the religious feelings of any class of the citizens of India by insulting or blaspheming or profaning the religion or the religious beliefs of that class; or

(v) grossly indecent, or scurrilous or obscene or intended for blackmail.’

202. In section 510 of the Penal Code, for the words “with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten rupees, or with both”, the words “with fine which may extend to five hundred rupees” shall be substituted.

Amendment of section 510.

203. Chapter XXIII of the Penal Code shall be omitted.

Omission of Chapter XXIII.

20 of 1938. 204. (1) As from the commencement of the Indian Penal Code (Amendment) Act, 1972, the Criminal Law Amendment Act, 1938, shall stand repealed.

Repeal and savings.

10 of 1897. (2) The provisions of section 6 of the General Clauses Act, 1897, shall, so far as may be, apply in respect of any investigation, legal proceeding or remedy that may be instituted, continued or enforced after the repeal of the enactment referred to in sub-section (1).

STATEMENT OF OBJECTS AND REASONS

The Indian Penal Code was enacted in October, 1860 and brought into force on the 1st January, 1862. It was based on the original draft prepared by Lord Macaulay and his colleagues in 1837 and was intended to codify the substantive law of crimes in British India. During more than a century of its existence, the Code has undergone remarkably few amendments. The Law Commission undertook the task of revising the Code in pursuance of its general terms of reference, which were, mainly, to suggest measures for removing anomalies and ambiguities brought to light by conflicting decisions of the High Courts or otherwise, for consolidating laws wherever possible and for suggesting improvements wherever necessary, in respect of such old laws. The Report of the Law Commission was submitted in June, 1971.

2. The recommendations of the Commission were carefully and critically examined and the occasion was taken to consider suggestions for reform of the law received from other quarters. The comprehensive changes proposed in the present Bill are intended to give effect to such recommendations and suggestions as have been found acceptable. In formulating the changes, the following basic considerations were kept in view:—

(i) Crimes involving the well-being of society or affecting a large number of persons should be visited with more severe punishment than those against the interests of individuals.

(ii) Anti-social or "white collar" criminals should be dealt with more drastically than ordinary criminals.

(iii) In view of the changing concepts regarding private property, the importance now given to crimes involving private property should be reduced and shifted to crimes against society or those involving the liberty of the individual; even in respect of offences against property, distinction should be made between private and public property by prescribing a heavier punishment in the case of offences relating to the latter.

(iv) Offences committed usually by persons who are well-placed in life or who hold responsible positions in public service, profession or business, should, wherever possible, be penalised to a greater extent than those committed generally by ignorant or backward persons.

(v) The limits to the quantum of fine which were fixed several decades ago, should be increased and generally the limits should be removed leaving the matter to be regulated by the powers of the Courts.

(vi) Provision should be made for punishments intermediate

between fine and imprisonment to avoid, at least to some extent, the contamination of a casual or unsophisticated offender by hardened criminals in the jail and generally to protect the interests of the poorer sections.

(vii) The scope for imposing short-term imprisonment should be reduced as such imprisonment serves no useful purpose.

3. The general impression about the Code is that the drafting of the provisions cannot be bettered. Further, the meaning of the words used in the Code has been well-understood and applied by courts during more than hundred years of its operation. A change in the wording even if it be for improving the language, may have the effect of unsettling settled law and generating more litigation, which will be particularly harmful to the poorer sections of the community. Changes in the wording have not therefore been made except when such changes are necessary to remove doubt arising from conflicts of judicial decisions or for other like considerations. Similarly, the existing numbering of the various sections are as far as possible being retained as they have become familiar.

4. The question of removing the death penalty from the Code was considered carefully. In view of the sharp difference of opinion on this issue, it is proposed to adopt a cautious approach. The death penalty will be retained but its imposition will be restricted only to extreme cases where nothing short of the death penalty would be appropriate.

5. The notes on clauses explain the more important changes made to provisions of the existing Code.

NEW DELHI;

The 29th November, 1972.

RAM NIWAS MIRDHA.

Notes on clauses

Clause 2.—This clause seeks to substitute a new section for existing section 4 of the Indian Penal Code. The new section seeks to enlarge the scope of the existing provision to meet the needs of the present day, with due regard to similar provisions made in the laws of certain other countries. The intention is that the alien offender will be prosecuted and punished only if he is found in or brought to India and only if he had not been adequately punished in the country where the offence was committed and had not committed the act in exercise of a liberty granted to him in that country.

Clause 3.—This clause seeks to substitute a new section for existing section 5 of the Penal Code. Since the Acts providing for the discipline of the officers and men of the armed forces of the Union, like the Army Act, 1950, the Air Force Act, 1950 and the Navy Act, 1957 are undoubtedly special laws within the meaning of "special law" as defined in section 41 of the Code, references thereto have been omitted from section 5.

Clause 4.—Quite a few of the definitions in the Code are also contained in the General Clauses Act, 1897, which was enacted later. It is proposed to utilise the said Act for the interpretation of the Code, thereby avoiding repetition of such definitions.

Clauses 5, 10, 13 and 17.—The omission of sections 8, 9, 11, 22, 31, 32, 33, 48, 49 and 50 of the Penal Code is in consequence of the insertion of new section 5A *vide* clause 4.

Clause 6.—The word "Election" is at present defined in *Explanation 3* of section 21 of the Penal Code. As the definition is not restricted in its application to that section but applies to other provisions of the Code, the definition of "Election" is being provided in a separate section.

Clause 7.—Section 14 of the Penal Code defines "servant of the Government" as any officer or servant, continued, appointed or employed in India by or under the authority of Government, but this expression does not now occur in any other section of the Code. (Before 1950, the expression "servant of the Queen" occurred in section 4 and the definition in section 14 was of use.). The section is, therefore, being omitted.

Clause 8.—The proposed amendment is intended to clarify the present position that the Penal Code does not apply in relation to the State of Jammu and Kashmir and as such references to the Government of a State do not include a reference to the Government of Jammu and Kashmir State.

Clause 9.—The change in the definition of "India" as given in section 18 of the Penal Code is purely of a drafting nature.

The changes in the definition of "Judge" as given in section 19 of the Code are also verbal and the addition of the word "magistrate" is by way of clarification.

The definition of "Court of Justice" is being simplified in view of the definition of the expression "Judge" provided in section 19 of the Penal Code.

The definition of "public servant" in section 21 has been recast to clarify doubts and to avoid overlapping as far as possible, without unduly expanding its scope and ambit. Sub-clause (ix) of the new provision is intended to cover matters mentioned in clauses seventh, eighth, ninth and tenth of the existing section. The public duty referred

to therein is restricted to what is imposed by law as otherwise the scope of the sub-clause will be unduly widened which is not the intention. Although Members of Parliament and of State Legislatures would also be covered under this sub-clause, a specific provision in sub-clause (i) has been made to remove any doubt.

The new section 21A defines "State" so as to exclude the State of Jammu and Kashmir but to include the Union territories.

Clause 11.—The existing definition of the word "fraudulently" has been found to be imperfect; it has been recast to conform to the meaning given to it by courts, namely that it includes an intention to deceive another and an intention to cause by that deception injury to some person.

Clause 12.—A verbal change has been made to cover also matter recorded in tapes and films.

Clause 14.—The change is only verbal.

Clause 15.—Under the existing section 40 of the Penal Code, the word "offence" has been given different meanings with reference to different provisions. As this is not conducive to clarity or convenience, it is proposed to do away with this differentiation and to define the word as anything made punishable under any law. This is being secured by adopting the definition of "offence" as given in the General Clauses Act. The existing section 40 is accordingly being omitted in view of clause 4.

A new definition of the expression "capital offence" has been inserted as section 40, for facility of drafting.

Clause 16.—The existing definition has created some difficulty. Under this, unless a law which enjoins a person to do a particular thing also lays down expressly that the person shall not omit to do that thing, the person cannot be considered "legally bound" to do that thing. The revised definition is intended to remove the difficulty.

Clause 18.—The existing definition of "good faith" (which is different from the definition of the same word in the General Clauses Act) has created a doubt whether the requirement of honesty is or is not material for the purposes of the Code. It is considered that the existing definition merely emphasises the need for care and attention while not excluding the need for honesty of purpose, which is implicit in the concept of good faith. The definition is being revised to make the position clear.

The amendments to section 52A of the Penal Code are verbal.

Clause 19.—When a person is sentenced to simple imprisonment, he is in practice required to do some light work. As a life of complete idleness in prison will not do good even to the prisoner, the distinction between the two kinds of imprisonment is accordingly being clarified.

To remove doubts in the matter it is being clarified that imprisonment for life shall be rigorous.

Three new kinds of punishment are being added, namely, (a) externment, (b) order for payment of compensation, and (c) public censure. These are provided for in clause 29. In addition, a modified form of corrective labour as an alternative to imprisonment is proposed to be provided for in the Code of Criminal Procedure.

Clause 20.—As a sentence of death would be too harsh on young and immature persons, a new provision is being made to prohibit such sentence on any person under 18 years of age.

Clause 21.—The provisions are being deleted as section 402 of the Code of Criminal Procedure, 1898 would be adequate.

Clause 22.—This is consequential on the clarification made that imprisonment for life shall be rigorous.

Clauses 23 to 26.—The existing provisions in sections 64 to 69 have created some confusion. They have been revised and redrafted. The limits of fine mentioned in section 67 have been doubled in view of the change in the value money. The word "levied" in section 68 has been replaced by the word "realised".

Clause 27.—The changes made to section 70 of the Penal Code are intended to remove doubts that have arisen as to the meaning of the word "levied". Some courts have taken the view that the section prescribes a time limit for the realisation of the fine. The intention is that the proceedings for levy of fine should commence within the period of six years after passing of the sentence and not that the proceedings for levy of fine should terminate within that period. The new section 70 seeks to make this clear.

There is conflict of decisions on the implications of section 71 particularly in the light of section 26 of the General Clauses Act, 1897. The provisions have been redrafted to settle the controversy by specifically providing that—

(i) where an offence is made up of parts and any of such parts is itself an offence of the same kind, the offender shall not be punished separately for such parts unless expressly so provided;

(ii) when an act constitutes an offence under two or more enactments but the ingredients of the offences are the same, the offender shall not be punished for more than one of such offences; and

(iii) in the preceding case, where the ingredients are not the same the offender may be punished separately for each of such offences but the aggregate punishment shall not exceed what can be awarded for any one of such offences.

Section 72 of the Penal Code has been redrafted to harmonise it with section 367(3) of the Code of Criminal Procedure.

Clause 28.—Solitary confinement as a form of punishment is rarely imposed by courts and is also out of tune with modern thinking. It is being done away with.

Clause 29.—Three new sections are being inserted to provide for the three new punishments added to section 53 by clause 19. These are—

(a) *Externment.*—In certain circumstances, it might be useful if, instead of sentencing a person to imprisonment, the court orders him to remove himself from a specified area for a specified period. An order of this kind will avoid the almost routine sentence of imprisonment in some cases. In a prison there is ample scope for the contamination of the unsophisticated offender by the professional

criminal and it is desirable that there should be an alternative to imprisonment which could be availed of at least in some cases. The person convicted and his family would also be benefited because he is otherwise free. This new kind of punishment would be appropriate in respect of a person found guilty of offences relating to public peace. The court may also order that the person should report himself at specified intervals to a police station or other authority mentioned in the order so as to ensure that he complies with the order of externment.

(b) *Duty to make amends.*—The new provision in section 74B is intended to provide for some kind of reparation or compensation to victims of crimes the need for which has been receiving attention in recent times. The existing provisions in section 545 of the Code of Criminal Procedure are limited in scope and so a general power is being conferred on the convicting court to pass an order directing that the accused shall make compensation restitution or reparation to any person aggrieved or injured, or for the actual loss or damage arising from the commission of the offence, in such manner and to such extent as may be appropriate to the case. The actual relief may take any form depending on the facts of the particular case and the court is expected to determine this question in a summary way without an elaborate inquiry. The direction for compensation, restitution or reparation may be in addition to or in lieu of any other sentence which the court may pass for the offence. It is considered that a provision of this kind will be particularly beneficial to the poorer sections of the people where the accused is in a position to make amends.

(c) *Public censure.*—In the case of any person convicted for the second time of certain anti-social offences, it is proposed to confer power on the court to order the publication of the name of the offender and other particulars, at his cost. Such publication will be a public censure and might be appropriate in certain circumstances and for certain categories of offenders.

Clause 30.—This clause seeks to substitute a new section for existing section 75 of the Penal Code. At present, section 75 provides for enhanced punishment only in respect of offences relating to property, coins and Government stamps. The new section seeks to widen its scope so as to make it applicable to every offence punishable with imprisonment up to 2 years or more, so that it may attract other cases, particularly those of persons convicted of anti-social offences more than once.

In the second place, the existing provision would apply even if the offender has led a blameless life for a long time after the first conviction. It is considered desirable that due regard should be had to the interval of time between the previous conviction and the subsequent offence and provision is being made that where such interval exceeds five years, the liability for enhanced punishment should not attach.

Clauses 31 and 32.—Clause 31 incorporates the provisions of sections 76 and 79 of the Penal Code with some drafting changes; illustration (a) to section 76 is being omitted as it has created some confusion.

Existing section 79 thus becomes redundant and is being omitted *vide* clause 32.

Clause 33.—The scope of section 94 of the Penal Code is being expanded to provide that the threat (i) need not be only to cause death but may be to cause grievous bodily harm, and (ii) need not be only to the person himself but may be to someone near and dear to him. Explanation 2 is being changed into an illustration.

Clause 34.—The first paragraph of section 99 of the Penal Code has been construed by courts to cover only acts which are irregular and not those which are illegal. Instances have arisen where public servants, acting in good faith for the purpose of executing orders of a court have been attacked and injured by persons and when the assailants are prosecuted, they claim to have acted in exercise of their right of private defence. Such claim is often upheld by courts on the sole ground that the court's order was without jurisdiction. It is considered that as the question whether an order passed by a court is within or without its jurisdiction, is often a difficult one, a subordinate public servant executing an order of court should not be exposed to the risk of bodily injury if he obeys the orders without questioning the court's jurisdiction. It is also against public policy to expect or require public servant to question the jurisdiction of a court issuing an order which he is bound to execute. Sub-clause (1) (a) is intended to remove this difficulty.

At present under the third paragraph of the section, there will be no right of private defence if there is time to have recourse to the protection of public authority. The question whether there was sufficient time for seeking such protection has often presented difficulties. Further, a person facing a danger cannot be expected to consider carefully whether there is or is not sufficient time to seek such protection. The existing provision also discourages self-help among the people and expects every one to look to the authorities for protection. This paragraph is accordingly being omitted.

The section has been recast after incorporating the above changes.

Clause 35.—Section 100 of the Penal Code has been recast and a clarification is being made that in the case of abduction the section would be attracted only to such abduction as is punishable under the Code.

Clauses 36 and 38.—In sections 101 and 104 of the Penal Code it is proposed to include involuntary causing of death for removing doubts in this regard.

Clause 37.—The existing clauses *First to Fourthly* of section 103 of the Penal Code are being recast and the following are being added, namely, (1) mischief by explosive substances, (2) mischief on any vehicle, (3) mischief committed in places of worship, and (4) mischief to public property.

Clause 39.—This clause seeks to substitute a new section for section 105 of the Penal Code. As house breaking by night is not being retained as a specific offence, reference thereto has been omitted. Other changes made are purely from drafting point of view.

Clause 40.—This clause seeks to substitute a new section for sections 108 and 108A of the Penal Code. The wording of sub-section (1) has

been altered to bring it in conformity with section 107. The new subsection (2) incorporates the provisions of section 108A with modifications to make it applicable to all offences.

The illustrations have been revised. Other changes are of clarificatory nature.

Clause 41.—It is considered unnecessary to restrict section 109 only to offences under the Penal Code. The illustrations are being omitted as being unnecessary.

Clause 42.—In section 115 of the Penal Code, the term “capital offence” is being substituted for the words “an offence punishable with death or imprisonment for life” in view of the new section 40. This will also resolve the doubt whether section 115 would cover offences punishable with imprisonment for life only.

In section 116 of the Penal Code, abetment of an offence which is punishable with fine only is not at present punishable. It is proposed to include such offences, particularly because some more offences are being made punishable with fine only. It is also proposed to increase the limit of sentence from one-fourth to one-half in the first paragraph of the section as the existing limit is considered inadequate.

In the second paragraph of that section, where the person who abets an offence has a duty to prevent the commission of that offence, the present punishment, namely, one-half of the period of imprisonment for the main offence, is considered inadequate and is being raised to the full period. But this paragraph will not apply to one who is not a public servant where the person abetted is a public servant; in such cases no special provision is considered necessary.

Clause 43.—This clause seeks to insert a new section 117A in the Penal Code. The new provision is intended to deal with persons who abet the commission of offences by children. Some unscrupulous persons in urban centres train children in criminal activities and live upon their earnings. In such cases, the person who instigates the minor offends society in two ways, namely, by committing the offence of abetment and by engaging in the more serious anti-social activity of spoiling children. It is proposed to double the punishment in such cases.

Clauses 44 to 46.—The verbal changes made to sections 118, 119 and 120 of the Penal Code are of consequential or clarificatory nature.

Clause 47.—This clause seeks to insert a new Chapter VB in the Penal Code. At present, the word “attempt” has not been defined in the Code but its meaning as explained by courts of law is now well understood. It is considered desirable to insert a specific definition of this word to facilitate application. The definition will embody the meaning and import of the word as settled by the Supreme Court. Section 511 is being brought over to this new Chapter and re-numbered as section 120D.

Clause 48.—The offences under sections 122 and 123 of the Penal Code being serious, it is proposed that the imprisonment imposed should be rigorous.

Clause 49.—It is considered desirable to make a specific provision for dealing with persons who assist or adhere to an enemy. Activities of this nature are regarded as treasonable and punished as such in the laws of some countries. The proposed new section 123A is designed to achieve that objective.

Clause 50.—The Supreme Court has upheld the validity of section 124A of the Penal Code on the basis that it applies only to activities intended or having a tendency to create disorder or disturbance of public peace by resort to violence. Changes have been made in the section to reflect this view of the Supreme Court.

Although the term "Government established by law" includes all the three wings of Government, disaffection towards the legislature and the judiciary is being specifically mentioned in the section to avoid any doubt.

A specific provision is being added to deal with insults to the Constitution, the national flag or emblem or the national anthem. Parliament has recently enacted a special law in this regard but it is considered desirable to provide for it in the Penal Code as a new section 124B.

Clauses 51 to 53.—The changes made in sections 125, 126, 128, 129 and 130 of the Penal Code are verbal.

Clause 54.—This clause substitutes a new Chapter for the existing Chapter VII of the Penal Code as a series of changes broadly indicated in the succeeding paragraphs are being made in the various provisions.

At present the provisions of this Chapter apply only to offences in relation to the Army, Navy or Air Force and to offences like mutiny, desertion, insubordination and harbouring. The provisions of the Chapter are designed to maintain perfect discipline in these Armed Forces. For the same purpose, there is need for making similar provisions in relation to other Armed Forces of the Union, such as the Border Security Force and the Central Reserve Police. This is being done.

In section 135, it is proposed to make a distinction between successful and unsuccessful abetment, the former being punishable with imprisonment up to 5 years. Similarly, in section 138, unsuccessful abetment is also being made punishable and the punishment of imprisonment in respect of successful abetment is being raised to 2 years.

The provisions in section 505(1) dealing with publication of a statement, rumour or report with intent to cause mutiny or other act of insubordination and those in the Criminal Law Amendment Act, 1938 which punish a person who wilfully disuades persons from recruitment to the Armed Forces or instigates a person to mutiny or insubordination after enlistment, are being included in this Chapter. The punishment for the latter offence is being raised to imprisonment for 3 years from that for one year.

Certain other verbal and drafting changes have been made.

Clause 55.—At present under clause *third* of section 141 of the Penal Code, an assembly will be unlawful if its object is, *inter alia*, to commit any mischief or criminal trespass or other offence. By virtue of the existing definition of "offence" in section 40, this clause will cover cases where the common object is to commit any offence under the Code, including one punishable with fine only, but not cases where the object is to commit offences under special or local laws punishable with less than six months' imprisonment. This differentiation is considered unnecessary. It is therefore proposed to extend the scope of this clause to include all offences so that any assembly whose common object is to commit any offence under any law will be an unlawful assembly.

Clause 56.—At present a preparation to commit riot, such as by collecting sticks, brick-bats, weapons, etc., is not an offence. As it is considered desirable to stop activities leading to disorder at an early stage, it is proposed to insert a new provision, section 147A in the Penal Code, to achieve that objective.

Clause 57.—The words “malignantly or wantonly” occurring in section 153 of the Penal Code are being omitted as they do not add much to the other requirements of the section.

Clause 58.—At present, there is a difference of opinion among the High Courts on the question whether under section 153A of the Penal Code, the act which promotes enmity between different classes should be done with the intention of promoting such enmity. The purpose of the section may often be defeated if it is not related to the effect of the speech, writing, etc., irrespective of the intention of the person, which is difficult to prove in many cases. If the effect is to create enmity, etc., the intention should not be relevant. An Explanation has been added to clarify the position accordingly. The other changes proposed are verbal.

Clause 59.—The amendment proposed is verbal.

Clause 60.—That part of section 505 of the Penal Code dealing with publication of statement, rumour or report which conduce to offences against public tranquillity, is being brought over to this Chapter as section 153C.

Clauses 61 and 62.—The punishments for the offences under sections 154, 155 and 156 of the Penal Code which are now lenient, are proposed to be increased with a view to deter persons from committing riot in connection with land disputes.

Clause 63.—The amendment proposed is verbal.

Clause 64.—The punishment now prescribed for an offence under section 160 of the Penal Code is considered inadequate and is being raised.

Clause 65.—There is a conflict of decisions among the High Courts on the question whether a person who has become *functus officio* or is not in a position to do the official act, can be found guilty of an offence under section 161 of the Penal Code. The amendment is intended to settle the conflict.

Clause 66.—The punishment for the offence under section 166 of the Penal Code which is quite serious is considered inadequate and is being increased.

Clause 67.—The amendments proposed are verbal and of clarificatory nature.

Clause 68.—The punishment for an offence under section 171 of the Penal Code is considered inadequate and is being increased.

Clause 69.—The scope of the definition of “electoral right” as given in clause (b) of section 171A of the Penal Code is being enlarged to include the right not to withdraw the candidature, so as to bring the provision in conformity with the corresponding provision in the representation of the People Act, 1951.

Clause 70.—The punishments now prescribed for offences under sections 171E and 171F of the Penal Code are not considered adequate and are being increased to maintain purity of elections.

Clause 71.—The making or publication of false statements in relation to the candidature or withdrawal thereof is also being included within the purview of section 171G of the Penal Code on the analogy of section 123(4) of the Representation of the People Act, 1951 and the punishment is being increased as it is considered inadequate.

Clause 72.—The punishments now prescribed for offences under sections 171H and 171I of the Penal Code are considered inadequate and are being increased.

Clauses 73 to 85.—The punishments prescribed for offences under sections 172 to 180 and 182 to 187 of the Penal Code are not considered adequate and are being increased. The limits for sentences of fine which were fixed several years ago are being removed in most cases, thereby leaving the matter to be regulated by the limit of the sentencing powers of courts in this regard. Sentences of imprisonment for one month are being either increased to imprisonment for three months or reduced to fine only, thereby reducing the scope for awarding sentences for short terms of imprisonment.

Sections 172, 173 and 175 which apply to production of documents are being enlarged to include production of other things also. The illustrations are unnecessary and are being omitted.

The Explanation to section 177 is being redrafted to avoid confusion and inconsistency with the provisions of the Code of Criminal Procedure.

In respect of sections 183 and 186, there is a conflict of decisions on the question whether these sections would be attracted even if the public servant is not strictly justified by law. It is considered that so long as he acts in good faith under colour of office he should be protected even if what he did is not strictly justified by law. It is proposed to clarify the position by the amendments in clauses 81 and 84.

Clause 86.—Under section 188 of the Penal Code, the disobedience of an order promulgated by a public servant is not itself an offence unless such disobedience causes or tends to cause obstruction, annoyance or injury or riot or affray, as the case may be.

It is considered that this restriction is unnecessary. In the first place, restrictive orders, such as those under section 144 of the Code of Criminal Procedure are promulgated only if the magistrate or other public servant considers it necessary to do so to prevent riot or breach of public tranquillity or obstruction or annoyance or injury to any person lawfully employed, etc., and the prosecution has necessarily to prove these preconditions to sustain the validity of the order. If it has to prove further the effect or tendency of the order, it will be an additional burden which may well lead to perjured evidence. Secondly, such a requirement will be outside the scheme of Chapter X dealing with disobedience of orders of public servants. It is not also relevant to take into account the circumstances which prevail on the date of disobedience of the order. A duly promulgated order of a magistrate or public servant must necessarily be obeyed. However, in the matter of punishment a mere disobedience is being made punishable only with fine.

If the disobedience results in the consequences set out in the first and second parts of the existing section, the punishment will include imprisonment. The terms of such imprisonment are being increased as they are considered inadequate.

Clause 87.—With respect to the offence of giving or fabricating false evidence, there is a conflict of decisions on the question whether for the purpose of these offences such evidence should be admissible under the Evidence Act. It is considered that if the commission of the offence is to depend on the admissibility of the evidence it will not be a satisfactory arrangement as the matter will fluctuate with the decision of the court as to the admissibility of such evidence. It is proposed to clarify the position by inserting a new Explanation to section 193 of the Penal Code.

Clause 88.—As pointed out by the Law Commission, the second part of section 194 of the Penal Code punishes only the person who gave false evidence and not the person who fabricated it. There is no reason why fabricating false evidence should not be treated the same way as giving false evidence. Accordingly, it is proposed to add the words “or fabricates” after the word “gives”.

Clause 89.—Sometimes unscrupulous persons use false medical certificates for various purposes. At present, there is no specific provision to penalise the issue or the use of false medical certificate as the provisions in sections 196 and 197 are restricted to certain specific cases of using false certificates. The proposed new sections 198A and 198B are intended to combat the evil of using or issuing false medical certificates. An enhanced punishment is being provided for in cases where the certificate is for use in a judicial proceeding.

Clause 90.—It is considered that the scope of section 204 of the Penal Code should be extended to penalise the destruction of things other than documents, if such other things constitute evidence.

Clause 91.—This new provision is proposed as there is at present no direct provision in the Penal Code to punish the removal of attached movable property.

Clause 92.—In respect of sections 182 and 211 of the Penal Code, doubts have been expressed whether information given to a police officer would come under either or both these sections. It is proposed to clarify the position by confining section 211 to proceedings instituted in a court and section 182 to other cases of false information. The punishment for the offence under section 211 is being raised to three years' imprisonment as the present punishment is considered inadequate.

Clauses 93 and 94.—The amendments proposed in sections 213 and 214 of the Penal Code are of a clarificatory nature. The intention is that a mere agreement to take or give a gift for concealing an offence or screening the offender or unlawfully compounding the offence, would be sufficient even if the concealing, screening, etc., had not taken place.

Clause 95.—In section 216A of the Penal Code, a clarification is being made that it will be confined to persons about to commit robbery or dacoity, kidnapping or abduction, because persons who had already committed such offences are covered by section 212.

Clause 96.—The amendments proposed in sections 217 and 218 of the Penal Code are of a clarificatory nature.

Clause 97.—The existing punishment for an offence under section 228 of the Penal Code is considered inadequate and has been enhanced.

Clause 98.—Sometimes it happens that an interested person dissuades or attempts to dissuade a person from giving evidence before a court or a public officer by threats, bribes or other corrupt means. The proposed new section 229 of the Penal Code is intended to penalise such acts.

There is at present no provision to penalise persons who fail to appear in court after being released on bail, apart from the provision for re-arrest or forfeiture of bond. The proposed new section 229A is intended to discourage bail jumping.

Clauses 99 to 106.—These clauses deal with amendments to sections 230 to 252 of the Penal Code. At present there are two sets of provisions dealing respectively with coins in general and Indian coins, the punishment for the latter being higher than the former. It is considered that there is no need to continue this differentiation. The amendments to the relevant provisions as proposed in these clauses are intended to prescribe for the various offences in respect of all such coins the same punishment as at present prescribed in respect of Indian coins.

In section 247, the alteration of the composition of the coin is also being included by way of clarification.

Clause 107.—The amendment proposed is of a consequential nature.

Clause 108.—A new offence to deal with the use of spurious coin or token in automatic vending machines is being provided for in the proposed new section 254A, as such machines are being increasingly used.

Clause 109.—The existing section 263A of the Penal Code is being recast for the sake of clarity by splitting it into two new sections 263A and 263B.

Clause 110.—The punishment is being increased as the evil of using false weights and measures, especially in relation to commodities of daily use, is prevalent and should be put down, particularly because the persons who suffer most are the poor and the illiterate.

Clause 111.—The existing punishment for an offence under section 269 of the Penal Code is considered inadequate and is being enhanced.

Clause 112.—The word “malignantly” occurring in section 270 of the Penal Code does not connote anything special and is being replaced by the word “wilfully”. The existing punishment is also considered inadequate and is being enhanced.

Clause 113.—The punishment for the offences of adulterating food, drink or drugs is at present very lenient having regard to the serious nature of these anti-social offences committed by persons who are motivated by greed and to the fact that damage caused by such offences is to the entire community. The proposed punishment will be imprisonment up to 7 years and fine without limit. Habitual offenders would be liable to be sentenced to enhanced punishment under section 75 as revised.

Clauses 114 and 115.—In section 277 of the Penal Code, as the object is to penalise fouling of water supply, public-wells are also proposed to be brought within its scope. Further, the punishment for an offence under that section is also being raised. The punishment for an offence under section 278 is also being raised in view of the increasing awareness of the danger of pollution of atmosphere.

Clauses 116 to 119.—The existing limits on fine imposable for offences as under sections 279, 280 and 282 to 290 of the Penal Code are being removed leaving the matter to be governed by the powers of the convicting court. A new provision is being made to punish persons who drive on a public way any vehicle which is in such a state or so loaded as to endanger life.

Clause 120.—A new sub-section (3) is being added to section 292 of the Penal Code to enable the admission of evidence to prove whether the publication is in the interests of science, literature, etc. Although under section 45 of the Indian Evidence Act, expert evidence is even now admissible in such matters when the court so directs, it is considered desirable to make a specific provision by way of clarification.

Clause 121.—The existing section 294A of the Penal Code is being revised and amplified; certain acts concerning the keeping of a lottery office or the running of a lottery are being expressly made punishable. Guidelines to the State Government for authorising a lottery, are being provided to ensure that the power in this regard is not exercised arbitrarily.

Clause 122.—This clause seeks to substitute a new section for existing section 302 of the Penal Code. The intention is that the sentence of death may be imposed only in certain cases where the murder is committed by heinous acts as set out in the proposed new section. In all other cases of murder, the sentence imposable will be imprisonment for life.

Clause 123.—The punishment for an offence under section 304A of the Penal Code is being raised as with the increasing use of fast moving vehicles the frequency of these offences has increased.

Clause 124.—The amendment proposed is of a clarificatory nature.

Clause 125.—Sections 307 and 308 of the Penal Code have been revised in consequence of the insertion of a definition of the word "attempt" vide clause 47.

Clause 126.—Section 309 of the Penal Code which deals with the offence of attempt to commit suicide is being omitted as it is considered that the penal provision is harsh and unjustifiable, and that a person making such attempt deserves sympathy rather than punishment.

Clause 127.—The purpose of the amendment is to harmonise the provisions of the Code with those in the Medical Termination of Pregnancy Act, 1971.

Clause 128.—The punishment for the offence is being reduced as the offence is not very serious so long as the woman is alive.

Clause 129.—The proposed new section 318A of the Penal Code is intended to enforce a legal obligation to provide necessities of life wherever such obligation exists.

Clause 130.—The definition of grievous hurt as given in section 320 of the Penal Code has been recast. The requirement that the injured person should have been unable to follow his ordinary pursuits for 20 days is being omitted as this has led to abuse. On the other hand, any hurt which causes the sufferer to be in severe bodily pain for a period of ten days should be regarded as grievous hurt.

Clause 131.—The limit for the sentence of fine is being removed; it will be regulated by the sentencing powers of the court.

Clauses 132 and 134.—The punishment of life imprisonment for an offence under section 329 of the Penal Code is considered unnecessary and is proposed to be omitted. Consequently, the maximum punishment for the corresponding offence under section 327 is also proposed to be reduced.

Clause 133.—The existing provision has been recast and the part relating to causing hurt is being deleted as it will be covered by section 324 and the proposed new section 120D (attempt).

Clause 135.—The word "lawful" is being omitted in the latter part as it does not occur in the earlier part.

Clause 136.—The object of the proposed amendment is to avoid imposition of short-term sentences of imprisonment.

Clause 137.—The punishment of imprisonment is being reduced to the usual period and the limit on fine is being omitted.

Clauses 138 to 140.—The enhancement of punishment has been proposed with a view to curb negligence.

Clause 141.—The punishment for offences of wrongful restraint and wrongful confinement is being altered. Where the offence is committed by more than 10 persons, it will be an aggravation with an enhanced punishment; wrongful confinement or wrongful restraint when committed by a large number of persons is more serious than when committed by an individual because in the former case, there is the additional element of terror to, and the helplessness of, the victim.

The distinction made in the existing sections 343 and 344 of the Penal Code between wrongful confinement for 3 days or more and wrongful confinement for 10 days or more, is considered unnecessary; one section to punish wrongful confinement for 5 days and more is considered sufficient.

Clause 142.—The punishment for assault is considered inadequate and is being raised.

Clause 143.—At present, there is no specific provision to deal with indecent assault on children. In cases of such assault on female children courts have had to resort to section 354 of the Penal Code by straining

the language of that section. It is considered desirable to insert a new provision to deal specifically with assaults of children under sixteen years of age, male or female.

Clause 144.—The change is verbal.

Clause 145.—The use of the expression “lawfully entrusted” in the Explanation has led to a controversy as to whether the provision covers neglected or abandoned children taken charge of by orphanages or other similar institutions. The new Explanation is intended to clarify the position.

Clause 146.—The existing provision has created a doubt whether it covers cases where a person is bodily lifted and carried away when asleep or unconscious. The position is being clarified. Further, the scope of the section is being widened to include not only the use of actual force but also show of force.

A provision is being made to deal with cases of hijacking of vehicles whereby persons are compelled by force to go to a place not their intended destination. Such offences are on the increase not only with respect to aircraft but also other vehicles. The punishment will be higher in the case of hijacking of an aircraft.

Clause 147. It is considered that those found guilty of kidnapping of children should receive deterrent punishment. A minimum punishment of imprisonment for 3 years is being provided for such offence.

Clause 148.—The punishment now prescribed for the serious offence of kidnapping or maiming minor children for the purpose of begging is not considered adequate. This is a serious offence and it is proposed to prescribe a minimum punishment of imprisonment for 5 years for that offence.

Clause 149.—This is a new provision to deal deterrently with the serious offence of kidnapping or abduction for the purpose of ransom.

Clause 150.—The existing sections have been redrafted for the sake of clarity.

Clauses 151 and 152.—It is considered that having regard to the nature of the offences, the punishment of imprisonment should be “rigorous”.

Clause 153.—At present, the punishment is regulated according to the punishment for the principal offence of kidnapping or abduction. It will be simpler to prescribe a specific punishment for the offence under this section and this is being done.

Clause 154.—As the offence of abducting a child under the age of ten years with intent to steal is serious, a minimum punishment of rigorous imprisonment for two years is being provided for.

Clause 155.—As the offences are of a serious nature, simple imprisonment should be ruled out.

Clause 156.—The amendment proposed is intended to settle conflict of judicial decisions. The more liberal view expressed by the High

Courts of Bombay and Patna which secures effective protection against mercenary exploitation of helpless minor girls is being adopted and incorporated as Explanation III to section 373 of the Penal Code.

Clause 157.—The following changes are proposed to be made in the existing provisions:—

(i) At present, the consent given by the woman to the act is vitiated when such consent is obtained by putting her in fear of death or of hurt to herself. The provision is being extended to cases where death or hurt is threatened to someone else present on the spot, such as the woman's child, parent or husband.

(ii) Where the husband and wife are living apart under a decree of judicial separation or by mutual agreement, it will not be rape under the present law if the husband has intercourse with his wife even without her consent so long as she is above 16 years of age. It is considered that this is not satisfactory. A new provision is being made to punish such intercourse. However, the punishment will be lower than that prescribed for the offence of rape.

(iii) In certain situations although force or fraud is not established, the compulsion of the situation is such that the woman's will is dominated by the will of the man who taking undue advantage of the situation, takes liberties with the woman. The provisions made in the new sections 376A, 376B and 376C are intended to deal with such cases.

Clause 158.—The punishment for the offence is considered too harsh and is being reduced and a distinction is being made between cases where the offence is against a minor and those where it is not.

Clause 159.—Provision is being made for the following aggravated forms of theft, namely:—

(i) Theft in a vehicle used for the transport of goods or passengers (as such theft affects the public at large).

(ii) Theft of public property (as such theft is more reprehensible than theft of property of an individual).

(iii) Theft of property which belongs to or is part of a place of worship open to the public or which is intended for the purpose of worship (as such theft causes loss to the public).

(iv) Theft by a person who takes advantages of a calamity, like flood, fire, earthquake or accident (as such theft is highly reprehensible).

(v) The aggravated form of theft in section 381 need not be confined to a clerk or servant alone; it should cover theft by any employee.

Clause 160.—At present there is no specific provision for punishing blackmail. It is considered desirable to make such provision.

Clauses 161 and 162.—The punishment for the offence under section 377 of the Penal Code is being reduced (*vide* clause 158); and in consequence the special reference to that section is being omitted.

Clause 163.—The new section proposed is consequential on the changes made in section 302.

Clauses 164 and 165.—In section 397 of the Penal Code, a minimum punishment of imprisonment for 7 years is prescribed for the offence committed by a person who uses any deadly weapon at the time of committing robbery or dacoity. It has been held by courts that even if a person brandishes a weapon, it will be a case of use of that weapon and would attract this section. This is not considered necessary and it is proposed to restrict section 397 only to cases where grievous hurt is caused at the time of committing robbery or dacoity. Persons who only use deadly weapons at the time of robbery or dacoity will be brought under section 398 which now deals with the offence of being armed with deadly weapon at the time of attempting to commit robbery or dacoity. The minimum punishment of imprisonment for an offence under section 398 is being reduced to 5 years instead of 7 years as at present.

Clause 166.—It is considered desirable to punish preparation to commit robbery as in the case of dacoity. The offence of making preparation for committing dacoity is now punishable with imprisonment up to 10 years. Under Section 402, assembling for the purpose of committing dacoity is punishable with imprisonment up to 7 years. As it is often difficult to distinguish between these two offences, it is proposed to prescribe the same punishment of 7 years' imprisonment in both cases.

Clauses 167 and 168.—The changes are verbal.

Clause 169.—The amendment proposed is of a clarificatory nature.

Clause 170.—The clarification is being made to ensure that it applies to all property, movable or immovable.

Clause 171.—The amendment proposed in section 408 of the Penal Code is intended to bring it in accord with section 381 as revised.

Clause 172.—The word "factor" occurring in section 409 of the Penal Code is obsolete and is being omitted.

Clauses 173 and 174.—In respect of the offence of receiving or retaining stolen property, the following changes are being made:—

(1) Property obtained by cheating is being included in the definition.

(2) Where the theft, etc., was committed by one not liable under the law, such as by a child below the minimum age of criminal responsibility or by an insane person, provision is being made to ensure that the person receiving the property does not escape liability.

(3) Where the stolen property is the property of Government or local authority, the punishment is being enhanced to imprisonment for 7 years in sections 411 and 414. This will apply only if the person who receives the stolen property knows that it is the property of Government or local authority, as the case may be.

Clause 175.—The latter part of the definition of "cheating" requires that the person deceived should be induced to do or omit to do, something and that the act or omission should cause damage or harm to that person. Where no tangible harm had been caused, the section does not

in terms apply and courts have found it necessary to stretch the meaning of the word "harm" to cover any undue advantage. Further, where the harm is not to the person cheated but to some other person, the provision does not apply. It is considered that it should apply in such cases also. The amendment seeks to remedy these defects.

As the word "concealment" conveys the idea of something active, there is some doubt on the question whether the non-disclosure of facts where there is no legal obligation to disclose them, will be covered by the section. The position is being clarified.

Clause 176.—Some verbal changes are being made to bring section 420 in line with section 415.

In the new sections 420A and 420B inserted by this clause provision is being made for penalising certain types of cheating and corruption on the part of private employees and of professionals which are prevalent these days.

The new section 420A is intended to make cheating of Government an aggravated form of cheating. The need for this has arisen because of the large-scale cheating of Government indulged in by dishonest contractors while supplying goods or executing works. Such cheating deserves deterrent punishment as the loss caused to the public should be regarded as more serious than loss caused to an individual.

The new section 420B is intended to deal with commercial corruption, i.e., corruption by employees of private organisations which at present is not punishable as an offence unless it takes the form of cheating or criminal breach of trust or criminal misappropriation. With the rapid industrialization and the formation of joint stock companies, close personal contact between the employer and the employee has disappeared, especially when the employer is a corporate body. In consequence, there is scope for corruption on the part of such employees and such corruption is, in fact, widespread. It is considered desirable to make a new provision in this regard. The provision would also cover corruption on the part of professionals, like advocates, solicitors, chartered accountants, cost accountants, or architects. There are allegations that some of these professionals are corrupt sometimes. Although there are disciplinary bodies under the respective statutes to deal with misconduct on the part of professionals, these bodies tend to take a lenient view and so there is no effective check against such corruption.

Clauses 177 and 178.—The various aggravations of the offence of mischief are provided for in sections 426 to 440. It is considered desirable to streamline the provisions and reduce the number of aggravations.

The following changes are being made:—

(1) The punishment for mischief as such in section 426 has been raised from imprisonment up to three months to imprisonment up to one year, thereby avoiding the need for making special provisions in sections 427, 428 and 434, all of which are being omitted.

(2) Mischief to public property as also to machinery will be an aggravation, punishable with imprisonment up to three years. The new section 427 incorporates this provision.

(3) In section 429, re-numbered as section 428, the value of the animal is being raised to Rs. 200 and the punishment of imprisonment reduced from five years to three years.

(4) The provisions of sections 430 to 432 have been incorporated in the new sections 429 and 430 with verbal changes and the punishment of imprisonment reduced from five years to three years.

(5) Section 440 dealing with the offence of mischief after preparation to cause death has been re-numbered as section 431 and the punishment of imprisonment is being raised from five years to seven years.

(6) The provisions of section 433 have been incorporated in the new section 432 with verbal changes.

(7) The new section 434 incorporates the provisions of sections 437 and 438 with some minor changes.

(8) In the new section 435, the distinction between agricultural and other property (as in the existing section 435) has been removed.

(9) In the new section 436, sacred objects have been included.

Clause 179.—The word “lawfully” in the second paragraph of section 441 has created a doubt whether an unlawful entry with the specified intention would be excluded from this section. As the intention is that it should not be excluded, this word is being omitted and the section has been re-worded.

Clause 180.—A group of 18 sections (443 to 460) deals with criminal trespass in its various forms, such as house trespass, lurking house trespass, lurking house trespass by night, house-breaking and house-breaking by night. It is considered that so many details need not be provided for in the Penal Code. These provisions are being rationalised and re-numbered after omitting those which are unnecessary. The new offence called “burglary” is intended to provide for house trespass for committing theft or any other serious offence.

The punishment for criminal trespass has been raised from three months’ imprisonment to six months’ imprisonment and that for house trespass from one year to three years. For burglary, the punishment proposed is rigorous imprisonment for 10 years.

Clause 181.—This clause seeks to insert a new section 460A in the Penal Code which is intended to deal with criminal negligence on the part of professionals. To ensure that the provision is not abused at the instance of disgruntled clients, it is being provided that the section would not apply unless the negligence causes substantial loss or damage.

Clause 182.—As the place of making a document is as material as the time of making it, the word “place” has been added in the first clause of section 464 of the Penal Code. It is also considered desirable to mention in the second clause of that section “addition” and “obliteration” besides “cancellation” to remove doubts.

Clause 183.—The punishment for the offence under section 465 of the Penal Code is considered too light and is proposed to be raised.

Clauses 184 and 185.—The expression “a document purporting to be” has created some doubt whether it includes a document which actually is a court record, etc. The position is being clarified. The other verbal changes are also by way of clarification.

In section 467 of the Penal Code, forgery of an authority to adopt a son is being omitted, as this document is no longer so important as it used to be before the Hindu law was codified.

The punishment for the offence under section 466 is considered too light while that for the offence under section 467 is considered too harsh. The same punishment of imprisonment for ten years is being provided for both.

Clause 186.—Section 470 of the Penal Code has been recast having regard to the definition of the word “forgery” as given in section 463. Section 471 has been redrafted to remove some controversy on the meaning of the expression “in the same manner as if he had forged”.

Clauses 187 to 192.—The punishment of imprisonment for life for the offences under sections 472, 475 and 477 of the Penal Code is considered too harsh and is being reduced. The punishment of imprisonment for 7 years for the offences under sections 473 and 476 is considered too light and is being raised. The changes in the wording of section 474 are clarificatory. In section 477, the reference to authority to adopt is being deleted as being unnecessary.

Clause 193.—The limit on the fine is being removed and it will be regulated by the sentencing powers of the court.

Clause 194.—The provisions in the existing Chapter XIX of the Penal Code relating to breach of contracts of service are being deleted, as they are not of frequent use. A new Chapter is being substituted in its place to deal with offences against privacy, such as eavesdropping, unauthorised publication of photographs, etc. The need for assuring to every person the right of privacy, subject to certain limitations, has been recognised and provided for in many countries. The provisions now being made are considered necessary and sufficient.

Clause 195.—The expression “having a husband or wife living” in the existing section 494 of the Penal Code is out of date, as it does not take into account other forms of termination of married life, including divorce. It is considered desirable to redraft the section to make it clear in this and in other respects.

It is also being clarified that where a marriage is dissolved by the decree of a competent court and the parties cannot re-marry within a certain period specified by the statute, the marriage will be deemed to subsist till the end of that period.

Clause 196.—Under the existing law, if a male has sexual intercourse with an unmarried woman or a woman with no husband, the wife of the male cannot prosecute the woman for adultery. Even if the intercourse is with a married woman, that woman is not punished as an abettor if she consents or encourages the man. All this is based on the old theory that the wife is the property of the husband and not *vice versa*. The law is proposed to be amended to remove this anomaly and to place man and woman on an equal footing in this regard. If a female person whether married or unmarried has intercourse with a male having a wife, she would also be guilty of adultery, if the other conditions are satisfied.

Clause 197.—It is being clarified that the exception should not apply to publication of proceedings held *in camera*. The Explanation to this Exception is being deleted in view of the revised definition of the expression “Court of Justice” (*vide* clause 9).

Clause 198.—The new provision for publication made in sub-section (2) of the proposed section 500 is likely to afford more satisfaction to the innocent victim than the mere punishment of the offender.

Under the present law when a defamed person seeks a remedy in a criminal court, the accused person in trying to justify his action sometimes makes more defamatory allegations, either in the pleadings or in oral evidence. When these are published in the newspapers, the reputation of the defamed person suffers, though ultimately the court may convict the offender. To avoid this, the court is being enabled to consider when passing the sentence whether the guilt of the accused is aggravated by the plea and the nature of the evidence given to prove a plea of justification.

Clause 199.—It is considered that rigorous imprisonment should not be ruled out for these offences.

Clause 200.—The two parts of the section having been transferred to Chapters VII and VIII respectively, the section is redundant and is being deleted.

Clause 201.—The new provision in section 507A is intended to deal with a type of intimidation which has come into vogue, namely, threatening to go on an indefinite fast to secure some object, the intention being generally to coerce the Government or a public authority to pursue a course of action which it would not do otherwise. The person who indulges in such threats has generally the hope that the fast will disturb public order and thereby coerce the Government or the public authority to act as desired by him. It is considered desirable to penalise such activities. The provision is particularly necessary because it is proposed to omit section 309 dealing with attempt to commit suicide.

The new section 507B is intended to deal with another type of objectionable activity occasionally indulged in by certain persons, namely, conducting mock funerals, which are calculated to result in a breach of the peace. At present, such mock funerals may in some cases be dealt with as defamation, but this is not possible always. Such funerals, apart from the effect on the public peace, are in bad taste and should be penalised.

The new section 507C seeks to insert a new provision to punish unauthorised disfigurement of places open to the public view. The evil of disfigurement by way of writing, pasting or stencilling slogans or other objectionable matter on walls or precincts of buildings has assumed menacing proportions and requires to be curbed. Sometimes these writings, etc., incite persons to commit serious offences and it is considered necessary to penalise such objectionable writings. It is considered that the disfigurement of public buildings should be an aggravated offence with a heavier penalty.

Clause 202.—It is considered sufficient to prescribe only fine as punishment for this offence.

Clause 203.—Section 511 having been transferred to Chapter VB, and re-numbered as section 120D, is redundant and is being omitted.

Clause 204.—As recommended by the Law Commission, dissuading person from joining the armed forces and instigating them to mutiny or in subordination after joining, which are now offences under the Criminal Law Amendment Act, 1988 (20 of 1938), are being incorporated as new section 138B in Chapter VII *vide* clause 54. Thus, the need for a separate statute on the subject ceases to exist which is proposed to be repealed.

B. N. BANERJEE,
Secretary.